

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Board of Zoning Adjustment  
441 4th Street, N.W.  
Washington, D.C. 20001

PUBLIC MEETING AND PUBLIC HEARING  
April 26, 2011  
Start: 9:38am - End: 2:46pm

Second Floor Hearing Room, Suite 220 South  
Washington, D.C. 20001

Board Members

Meridith Moldenhauer - Chairperson  
Nicole Sorg - Vice Chairperson  
Jeffery L. Hinkle - NCPC  
Michael G. Turnbull - Architect  
Greg Selfridge - Zoning Commission  
Lloyd Jordan - Mayoral Appointee  
Clifford Moy - Secretary  
Beverley Bailey - Office of Zoning  
Mary Nagelhout - Office of the Attorney General  
John Nyarku - Office of Zoning

C o n t e n t s

A.M. SESSION

1. Chairperson Moldenhauer's Introduction . . .03
2. Application 18202 . . . . . 07

P.M. Session

1. Application 18200 . . . . .28
2. Application 18201. . . . .30

Conclusion of Meeting . . . . . 107

## 1 P R O C E E D I N G S

2 CHAIRPERSON MOLDENHAUER: This meeting  
3 will please come to order. Good morning ladies  
4 and gentleman. This is the April 26, 2011,  
5 Public Hearing of the Board of Zoning Adjustments  
6 for the District of Columbia. My name is  
7 Meredith Moldenhauer, Chairperson, joining me  
8 today to my right is Jeffrey Hinkle,  
9 Representative of the National Capital Planning  
10 Commission, to my left is Lloyd Jordan, Mayoral  
11 Appointee and to his left is Anthony Hood,  
12 Representative of the Zoning Commission. Copies  
13 of today's meeting agenda are available to you  
14 and are located to my left in the wall bin near  
15 the door. Please be advised this proceeding is  
16 being recorded by a court reporter and is also  
17 being webcast live. Accordingly we must ask you  
18 to refrain from any disturbing noises or actions  
19 in the hearing room. When presenting information  
20 to the Board please turn-on your microphone and  
21 speak into it, stating your name and home  
22 address. When you are finished speaking please

1 turn-off your microphone so that your microphone  
2 is no longer picking up sounds or background  
3 noise. All persons planning to testify either in  
4 support or in opposition are to fill out two  
5 witness cards these cards are located to my left  
6 on the table near the door and are also on  
7 witness tables. Upon coming forward to speak to  
8 the Board please give both cards to the court  
9 reporter sitting to my right. The order of  
10 procedures for special exceptions and variances  
11 are as follows: 1. Statement of the Applicant and  
12 Applicant's Witnesses. 2. Parties and persons in  
13 support. 3. Parties and persons in opposition. 4.  
14 Government Reports including Office of Planning  
15 and Department of Transportation. 5. Reports  
16 from the ANC. 6. Rebuttal and closing statements  
17 of the Applicant. Pursuant to Section 3117.4 and  
18 3117.5 the following time constraints will be  
19 maintained. The Applicant/Appellant persons and  
20 parties except an ANC in support including their  
21 witnesses will be given 60 minutes collectively.  
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2 minutes collectively. Individuals will be given  
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5 include cross examinations or questions from the  
6 Board. Cross examination of witnesses is  
7 permitted by a party or an Applicant in the ANC  
8 within which the property is located is  
9 automatically a party to a special exception or  
10 variance case. Nothing prohibits the Board from  
11 placing reasonable restrictions on cross  
12 examination including time limitations or  
13 limitation on the scope of cross examination.  
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16 requested by the Board. The Board and the Staff  
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2 and 406 of the Open Meeting Amendment Act of  
3 2010, the Board may consistent with its rules and  
4 procedures and the Open Meeting Amendment Act  
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7 counsel in a case per Section 405B4 and or  
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9 13 of the law but only after providing the  
10 necessary public notice and taking a roll call  
11 vote. The decision of the Board in these  
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18 proceedings. At this time the Board will  
19 consider any preliminary matters, preliminary  
20 matters relate to whether a case should or will  
21 be heard today such as a request for  
22 postponement, continuance or withdrawal or

1 whether proper or adequate notice of a hearing  
2 was given. If you are not prepared to go forward  
3 today or you believe that the Board should not  
4 proceed, now is the time to raise such a matter.  
5 Mr. Secretary, do we have any preliminary  
6 matters?

7 MR. MOY: Yes we do Madam Chair and it is  
8 attentive to the second case in the morning which  
9 is the Application of 18203 of Cespedes. That  
10 Application has been withdrawn so no action from  
11 the Board is required.

12 CHAIRPERSON MOLDENHAUER: Thank you very  
13 much Mr. Secretary. All individuals wishing to  
14 testify please rise and the oath will be  
15 administered.

16 MR. MOY: Do you solemnly swear or affirm  
17 that the testimony you're about to present in  
18 this proceeding is the truth the whole truth and  
19 nothing but the truth? You may consider yourself  
20 under oath.

21 **Application No. 18202**

22 MR. MOY: Good morning Madam Chair,

1 Members of the Board. The next application is  
2 18202 of Christine Melekian, pursuant to 11 DCMR  
3 3104.1 for a special exception to allow a two-  
4 story rear addition with roof deck to an existing  
5 one family row dwelling under Section 223 not  
6 meeting the court requirements under Section 406.  
7 It's in the R-4 District and at premises 808 9<sup>th</sup>  
8 Street, N.E. Property located in (Square 911,  
9 Lot 45).

10 CHAIRPERSON MOLDENHAUER: Thank you very  
11 much Mr. Moy the parties can turn on their  
12 microphone and introduce themselves for the  
13 record.

14 MS. FOWLER: Hi, I'm Jennifer Fowler,  
15 Fowler Architects.

16 MS. TILGHMAN: Hi, Casey Tilghman, Fowler  
17 Architects.

18 CHAIRPERSON MOLDENHAUER: How are you  
19 both doing? We can proceed forward with this  
20 case I think that the record is fairly full. I  
21 can see if there's any additional information  
22 that either of you would like to present in

1 regards to the 223 Standard. I can also see if  
2 there are any questions from Board Members.

3 MS. FOWLER: Okay, I would like to note  
4 that we did amend the application to include  
5 closed court requirement as well. I just wanted  
6 to make sure that that was apparent, based on  
7 feedback from Office of Planning, a very helpful  
8 staff; we added that into the piece. Other than  
9 that I think we can rest on the record or answer  
10 any questions that you might have.

11 CHAIRPERSON MOLDENHAUER: Okay do any  
12 Board Members have any specific questions for the  
13 Applicant?

14 MR. JORDAN: Yes I do Madam Chair. I'm  
15 concerned about the posting in this matter. From  
16 the affidavit file and the proof I couldn't view  
17 it, couldn't see it. I raise that question in  
18 light of the motion I think we had last month or  
19 something that the Applicant did not want to  
20 post. So I'm asking do you have any better  
21 pictures or anything that it was actually posted?

22 MS. FOWLER: I do not. I know that the

1 Applicant was concerned about privacy issues and  
2 was uncomfortable with having her name posted on  
3 the sign. I think there was a form that she  
4 filled out in respect to that, but I do not have  
5 any additional photographs.

6 CHAIRPERSON MOLDENHAUER: Have you driven  
7 by the property? Did you see if it was posted or  
8 no?

9 MS. FOWLER: I think she did post it that  
10 was her responsibility she decided to take on  
11 that responsibility for the case.

12 CHAIRPERSON MOLDENHAUER: I think the  
13 issue is that as you're aware she requested that  
14 we rule potentially to allow her to omit her  
15 name. We evaluated that and we determined that  
16 she had to post her name based on the way that  
17 the Regs are currently written. I think what Mr.  
18 Jordan is indicating is that the picture we have  
19 is really just a blurred picture and so we really  
20 can't see what it is. The second picture is you  
21 know I don't even know what the second picture is  
22 of. Actually now we're seeing a color copy of

1 it. So at least it's probably in the window.  
2 Okay that's much better; okay the color copy  
3 sheds light on the subject. We'll pass that  
4 along, okay that's perfect. Sometimes we get  
5 black and white copies of the document. Any  
6 follow up questions?

7 MS. FOWLER: We normally handle all that  
8 in-house except sometimes our clients opt to do  
9 more of the work themselves for various reasons.

10 CHAIRPERSON MOLDENHAUER: I understand, I  
11 understand. Any other questions from Board  
12 Members? Seeing none then if there's nothing  
13 further from the Applicant we'll turn to see if  
14 there are any individuals in the audience in  
15 support or in opposition of this case? Seeing  
16 none we'll turn to the Office of Planning for  
17 their report.

18 MS. THOMAS: Good morning Madam Chair,  
19 Karen Thomas for the Office of Planning. I would  
20 rest on the record of our report. The only thing  
21 that I would add is the addition of the closed  
22 court and we did consult with the Zoning

1 Administrator to make sure that the Applicant  
2 wouldn't have to come back for that little issue  
3 about a closed court that was caused by the  
4 landing. I would be happy to take any questions.

5 CHAIRPERSON MOLDENHAUER: Thank you very  
6 much. Do any Board Members have any questions  
7 for the Office of Planning?

8 MR. HOOD: Yes Madam Chair. Ms. Thomas  
9 in looking at your report you did get an email  
10 where (inaudible) great weight 6A-01. Is this  
11 Mr. Ronneburg's (inaudible). Is that who you got  
12 the email from Mr. Ronneburg?

13 MS. THOMAS: David Holmes.

14 MR. HOOD: Okay Mr. Holmes.

15 CHAIRPERSON MOLDENHAUER: It does  
16 indicate in our "Exhibit 30" just for the record  
17 that Mr. Ronneburg or Mr. Golden were authorized  
18 to speak today before us. So it is..

19 MR. HOOD: I was just curious  
20 (inaudible).

21 MS. THOMAS: I do have an unsigned letter  
22 though, I think we got it by FAX or email that

1 what the ANC 6-A voting in support.

2 MR. HOOD: Right I understand I just  
3 wanted to know who was the Single Member District  
4 that's all, Mr. Holmes I got it, thank you.

5 MS. THOMAS: Okay.

6 CHAIRPERSON MOLDENHAUER: Any further  
7 questions of Board Members for the Office of  
8 Planning? Seeing none does the Applicant have  
9 any questions of the Office of Planning?

10 MS. FOWLER: I do not I just wanted to  
11 thank them for their thorough review and for  
12 their help.

13 CHAIRPERSON MOLDENHAUER: Then at this  
14 point in time we'll see if there's anybody in the  
15 audience from ANC 6-A. Seeing no one we do have  
16 a letter that indicates that there was a  
17 regularly scheduled and properly noticed meeting  
18 with a quorum present on April 14, 2011, where  
19 they voted 7 to 0 to support the application.  
20 But as Office of Planning points out it's not  
21 signed but otherwise it does satisfy all of our  
22 requirements. I believe, in today's day an age

1 and technology I think a letter that maybe is  
2 provided on letterhead may not always have to be  
3 signed. The question is do we want to accept  
4 this as a letter that satisfies our requirements  
5 and provide it great weight. I would be inclined  
6 to do so considering that it's in support. I  
7 will look to the Board Members to see if they  
8 have a consensus on that? I think so, yes, okay  
9 we'll give this letter great weight and move  
10 forward. That being said we'll turn back to the  
11 Applicant for any closing remarks.

12 MS. FOWLER: Nothing else, just thank you  
13 for your time.

14 CHAIRPERSON MOLDENHAUER: Wonderful,  
15 thank you. At this point in time we'll conclude  
16 our hearing and we'll enter into deliberation.  
17 I'll just start us off; this is a fairly straight  
18 forward 223 case where we have a very modest  
19 addition to a rear row dwelling. It's got open  
20 court relief and closed court relief in which we  
21 have letters of support from all the neighbors  
22 which are our "Exhibits 26 and 27" and we also

1 have letters of recommendation from the Capitol  
2 Hill Restoration Society indicating it's support  
3 in "Exhibit No. 22". Then we have as we just  
4 indicated "Exhibit No. 30" which is a letter of  
5 support from the ANC. Obviously we always  
6 encourage and it's always great to see a project  
7 that is well supported by the community. It  
8 makes our evaluation especially under the 223  
9 Standard in regards to whether or not there is  
10 any undue effect in regards to light and air, use  
11 or enjoyment or any negative effect on the  
12 community much easier to evaluate when we have  
13 such a solid file of support and documentation of  
14 that support. That being said I'll incorporate  
15 some more detailed evaluation of the 223 and  
16 Office of Planning's Report into my deliberation  
17 and just indicate that I see no problem in  
18 supporting this application. I'll open up the  
19 floor to any further deliberation from Board  
20 Members.

21 MR. HINKLE: Madam Chair I think you were  
22 pretty thorough on your analysis and I certainly

1 agree with it.

2           CHAIRPERSON MOLDENHAUER: Just for a  
3 procedural issue as indicated earlier we had  
4 ruled on a motion and had permitted the posting  
5 to be a few days late and so we're waiving that  
6 requirement based on the fact that the Applicant  
7 had to wait in order for us to rule on her  
8 request prior to posting the affidavit and  
9 obtaining the affidavit. So procedurally for the  
10 summary order that had been ruled on previously  
11 but there's no issue there in regards of the  
12 timeframe for posting. We did take a look at the  
13 colored copy of the posting which showed that she  
14 did fill out that document and have it posted in  
15 her window. That being said I would submit a  
16 motion to approve Application No. 18202 for Ms.  
17 Melekian pursuant to 11 DCMR 3104.1 for special  
18 exception to allow a two-story rear addition to a  
19 roof deck to an existing one family dwelling.  
20 Under 223 not meeting the court under Section 406  
21 requirements and not meeting the closed court  
22 under 406 requirements in R-4 District at

1 premises 808 9<sup>th</sup> Street N.E. A motion has been  
2 made is there a second?

3 MR. JORDAN: Second.

4 CHAIRPERSON MOLDENHAUER: Motion has been  
5 made and seconded, all those in favor say aye.  
6 Aye.

7 CHORUS: Aye.

8 MR. MOY: Staff would record the vote as  
9 4 to 0 to 1 this is on the motion of Chairperson  
10 Moldenhauer to approve the application for zoning  
11 relief under special exception 223 not meeting  
12 the open and closed courts requirements under  
13 Section 406 as well as waiving the timeliness of  
14 the affidavit posting. Seconded by Mr. Jordan,  
15 also in support of the motion Mr. Hinkle and Mr.  
16 Hood and a Board Member not participating this  
17 morning Madam Chair.

18 CHAIRPERSON MOLDENHAUER: Thank you very  
19 much Mr. Moy. Seeing that we have ANC support  
20 and no opposition in this case we would like to  
21 waive our requirements and request that a summary  
22 order be issued.

1 MR. MOY: Thank you very much Madam  
2 Chair.

3 MR. JORDAN: Madam Chair while we're in  
4 our open meetings act, the issue that I want to  
5 talk about is simply these types of hearings. I  
6 think maybe we should have communication with the  
7 Zoning Commission Mr. Hood in that the Applicant  
8 should be allowed to waive the hearing upon the  
9 posting we should make a requirement that anybody  
10 that wants to participate particularly the public  
11 needs to make a declaration to us so many days in  
12 advance to put this back for hearing. For years  
13 I've witnessed that we have these types of  
14 hearings. People basically are going to submit  
15 on the record and if we have concerns we can  
16 certainly call for a hearing if necessary. I  
17 just think it helps us expedite the process.

18 CHAIRPERSON MOLDENHAUER: We actually do  
19 have an expedited process which is provided for  
20 223 however a lot of Applicants chose not go  
21 through that where they actually have the right  
22 to waive their hearing. So in a case like this,

1 this would be a perfect example for the Applicant  
2 to have opted to go to the expedited process  
3 where they could just get on the decision  
4 calendar. They have to obtain support from the  
5 neighbors, and support from the ANC which this  
6 case had. Then exactly as you stated we have the  
7 right to pull that case off of the expedited  
8 calendar if we feel that there's a need to or if  
9 there's an opposition the opposition can pull the  
10 case off the expedited calendar. However, from  
11 what I've seen since that rule to effect probably  
12 about five months ago?

13 MR. HOOD: Has it been that long, it's  
14 really new.

15 CHAIRPERSON MOLDENHAUER: It's really  
16 new; it's about five months I think, right?

17 MR. HOOD: Yeah, and let me say this to  
18 Mr. Jordan not to cut you off Madam Chair. I  
19 think you all will see this on May 17<sup>th</sup>; I would  
20 be interested in seeing how this works. On May  
21 17<sup>th</sup> we have an expedited review and I think  
22 that's when you'll probably see the difference.

1 The Chairperson is exactly right. I don't think  
2 its 5 months.

3 CHAIRPERSON MOLDENHAUER: I think it's  
4 maybe been about four or five months. We've had  
5 probably I think three cases or two or three  
6 cases that have opted to go the expedited route.  
7 We worked with the Office of Zoning and the  
8 Zoning Commission to come up with this new  
9 regulation that I think was implemented recently  
10 in order to try to have a more expedited process  
11 but not everybody's taking advantage of it.

12 MR. JORDAN: And I understand that but I  
13 also think that under the new expedited rules we  
14 still put it on the docket and we still handle it  
15 in open session.

16 CHAIRPERSON MOLDENHAUER: It is handled in  
17 open session it's just handled in the decision  
18 section, so it's handled in a public meeting  
19 versus a public hearing.

20 MR. JORDAN: Okay I just thought maybe  
21 that we could take a look at it and certainly  
22 being the new kid on the block that we can handle

1 summarily based upon our submission for consent  
2 and it would allow the docket to move faster  
3 without that. I don't think there's any real  
4 deliberation if (inaudible).

5 CHAIRPERSON MOLDENHAUER: I think that  
6 it's always positive to think about these things  
7 and that's why it's great to have a full Board  
8 because you have more people thinking and more  
9 people trying to come up with other ways to  
10 improve the process.

11 MR. HOOD: Again we're still going through  
12 rewrite, the rewrite will probably last forever,  
13 but we're still going through that. If that's  
14 something that we need to revisit we will but I  
15 think we at least have something in place where  
16 we didn't once. As the Chairperson said under  
17 223 those usually go fairly quickly.

18 CHAIRPERSON MOLDENHAUER: Before we, is  
19 there anything else kind of in this topic that  
20 people want to talk about. Before we close I do  
21 want to say on the record that I would like to  
22 just put out there for the public to know a

1 moment of silence Jerilee Crash did pass-away  
2 yesterday. She was an amazing asset to the  
3 Department of Zoning and had many, many years  
4 making this agency what it is today. I know that  
5 it's a great loss for family and friends and for  
6 the District. I just wanted to provide that  
7 notice to individuals that may be listening out  
8 there.

9 MR. HOOD: Also Madam Chair if I could  
10 just add I had the pleasure of serving with  
11 Jerilee and last night the Zoning Commission did  
12 a moment of silence and our prayers went out to  
13 her at the time and her family. This morning as  
14 you already stated we received the news that she  
15 has passed. I had the pleasure of working with  
16 Jerilee and also hiring Jerilee as the Director  
17 of the Office of Zoning. As you stated and  
18 mentioned earlier today she really revolutionized  
19 this agency. She brought in quality topnotch  
20 employees and she really has made this agency for  
21 the rest of the District of Columbia to model.  
22 It's been said over and over again at many

1 council sessions. She will sadly be missed but  
2 her work will continue to live on, thank you.

3 CHAIRPERSON MOLDENHAUER: Thank you and  
4 that then concludes our business for this morning  
5 and we'll reconvene at 1 o'clock.

6 **P.M. Session**

7 CHAIRPERSON MOLDENHAUER: This meeting  
8 will please come to order. Good afternoon ladies  
9 and gentleman. This is the April 26, 2011,  
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6 whether proper or adequate notice of a hearing  
7 was given. If you are not prepared to go forward  
8 today or you believe that the Board should not  
9 proceed, now is the time to raise such a matter.  
10 Mr. Secretary, do we have any preliminary  
11 matters?

12 MR. MOY: Madam Chair presently we do  
13 have one of the two applications before the Board  
14 this afternoon where there's a request for a  
15 continuance which is the first case for the  
16 afternoon Case No. 18200.

17 CHAIRPERSON MOLDENHAUER: Okay we'll take  
18 that up first on the agenda but before we do that  
19 all individuals wishing to testify if you could  
20 please stand and Mr. Moy will administer the  
21 oath.

22 MR. MOY: Do you solemnly swear or affirm

1 that the testimony you're about to present in  
2 this proceeding is the truth the whole truth and  
3 nothing but the truth? Ladies and gentleman you  
4 may consider yourself under oath.

5 CHAIRPERSON MOLDENHAUER: You can call  
6 the first case.

7 **Application No. 18200**

8 MR. MOY: Yes good afternoon Madam  
9 Chairperson, Members of the Board. That case is  
10 Application No. 18200, application of RP MRP 900  
11 G LLC, pursuant to 11 DCMR 3104.1 and 3103.2 for  
12 a special exception from the roof structure  
13 requirements under Section 777 and rather 400.7  
14 and a variance from the parking and loading  
15 requirements under (subsections 2101.1 and  
16 2201.1) respectively. This is to renovate and  
17 construct an addition to an existing office  
18 building in the DD/C-4 District at premises 624  
19 9<sup>th</sup> Street, N.W. property located in (Square 376,  
20 Lot 68).

21 CHAIRPERSON MOLDENHAUER: Thank you very  
22 much Mr. Moy. Good afternoon.

1 MS. RODDY: Hi, Christine Roddy with  
2 Goldsten and Storr's and we represent the  
3 Applicant.

4 CHAIRPERSON MOLDENHAUER: We're in  
5 receipt of both your letter requesting the  
6 postponement and also the Office of Planning  
7 indicating that they are at the same time  
8 requesting a postponement but they haven't even  
9 provided us with their report due to the fact  
10 that you anticipate potentially the plans  
11 changing based on some of the opposition and the  
12 communication back and forth.

13 MS. RODDY: That's correct.

14 CHAIRPERSON MOLDENHAUER: Okay, and you  
15 think that providing a month, only 30 days to the  
16 24<sup>th</sup> is going to be sufficient enough time to get  
17 everything into OP and have them process that and  
18 have the opposition parties process that? I just  
19 want to make sure that we're going to give you  
20 enough time.

21 MS. RODDY: We do, we've been in  
22 communication with everyone for a few weeks now

1 so I think that we're on our way to revising the  
2 plans where they need to be and to get everyone's  
3 information in the requisite amount of time.

4 CHAIRPERSON MOLDENHAUER: Then what we'll  
5 do I'm looking at May 24 and it looks like we've  
6 got 3 cases on the calendar for that day for the  
7 afternoon. I think a fourth case should be able  
8 to be squeezed in on that day I don't think it  
9 should be a problem. We'll put this on the  
10 afternoon calendar for May 24<sup>th</sup> and what we'll do  
11 is procedurally since we're not going to hear any  
12 of the requests for opposition or party status  
13 that have been submitted we'll obviously hold off  
14 on those preliminary matters until the 24<sup>th</sup> and  
15 handle that all at once.

16 **Application No. 18201**

17 MR. MOY: Okay very good thank you Madam  
18 Chair. The next and last application for this  
19 afternoon's session is Application No. 18201 of  
20 Ingomar Associates Inc., pursuant to 11 DCMR  
21 3103.2 this is for a variance from the rear yard  
22 requirements under (subsection 933.2) to allow a

1 four-story rear addition to an existing building  
2 for commercial and residential occupancy in the  
3 W-1 District at premises 1072 Thomas Jefferson  
4 Street, N.W.. Property located in (Square 1198,  
5 Lots 821 and 822).

6 CHAIRPERSON MOLDENHAUER: Thank you very  
7 much Mr. Moy if the parties could please step  
8 forward. We have a couple of preliminary matters  
9 in this case. Is Mr. Graham or Mr. Elliott  
10 present in the audience today? If you can step  
11 forward then we'll address both of your party  
12 status applications. Okay, good afternoon what  
13 we'll do is we'll start to my left and if  
14 everybody could turn on the microphone  
15 introducing yourself, identifying your name and  
16 home address and then we'll go down the row.

17 MR. MALTON: Thank you very much, I'm  
18 Elliott J. Malton I'm a resident and owner at  
19 1061 Thomas Jefferson Street, quite within the  
20 purview of the effects of the establishment of  
21 this proposed building. Thank you very much.

22 MR. DAVIDSON: Good afternoon, I'm Graham

1 Davidson I represent 1074-76 Thomas Jefferson  
2 Street, we are the entity that owns the building  
3 next to the proposed addition.

4 MR. HORSEY: Outerbridge Horsey 1228 ½  
5 31<sup>st</sup> Street, N.W. Washington Street, D.C. I'm the  
6 Architect for the project.

7 MR. TUMMONDS: Paul Tummonds with the Law  
8 Firm Goldsten and Storrs, 1999 K Street, N.W. I  
9 am the Zoning Council for the Applicant.

10 MR. MURRILLO: Julio Murillo with the  
11 Murillo Malnati Group we are the purchaser of the  
12 property.

13 MR. MALNATI: Donald Malnati with the MMG  
14 Development Group we're the purchaser of the  
15 property.

16 CHAIRPERSON MOLDENHAUER: Okay, good  
17 afternoon. Before we get to the party status we  
18 did just receive a new letter which includes the  
19 representation authorization for both Goldsten  
20 Storrs and Mr. Horsey which we had already  
21 received a letter for that. We don't have an  
22 exhibit yet on this but I'm sure our staff will

1 identify an exhibit but I appreciate that being  
2 provided. The next issue is we're going to have  
3 to walk through Mr. Davidson's your request for  
4 party status and Mr. Malton your request for  
5 party status and discuss exactly some of your  
6 concerns and evaluate whether or not you both  
7 qualify under our Zoning Regulations for party  
8 status. One of the things that I did see in  
9 reviewing both of your requests for party status,  
10 and I want to ask you some questions about this,  
11 is that it seemed that a majority of your issues  
12 related to construction activities. While  
13 obviously those are and obviously this is an  
14 opportunity for you guys to provide some dialog  
15 here that's why I'm asking the questions.  
16 Obviously construction is important however our  
17 Board does not have the jurisdiction to address  
18 issues of construction. Our Board has the  
19 jurisdiction to review whether or not the relief  
20 that they're seeking is permitted. Talking about  
21 the relief for the rear yard, talking about the  
22 relief of parking, and how those potentially,

1 those issues specifically whether they get that  
2 relief or not affect your properties and your  
3 interests. I'm going to ask both of you if you  
4 can address, I think both of you do address  
5 traffic concerns which would come under our  
6 purview in regards to the relief that the  
7 Applicant is seeking for their parking relief. I  
8 just want to kind of make sure that we understand  
9 I guess separating out the construction from  
10 potentially issues that specifically relate to  
11 the relief that they're asking for. So if both  
12 of you could address that question.

13 MR. DAVIDSON: Sorry I guess I didn't  
14 completely follow the questions that you were  
15 asking. Our primary objection is to the relief  
16 from the rear yard requirement. Without making  
17 an argument it's pretty clear that the Zoning  
18 does have a requirement for rear yard and they're  
19 asking for relief and I'm eager to hear their  
20 argument as to why they should be provided  
21 relief.

22 CHAIRPERSON MOLDENHAUER: So your main

1 concern is with that rear yard relief and how  
2 that's going to impact your property?

3 MR. DAVIDSON: Correct.

4 CHAIRPERSON MOLDENHAUER: Okay. Mr.  
5 Malton.

6 MR. MOLTAN: Yes I have been a resident  
7 on Thomas Jefferson Street of over 30 years and  
8 watched it become a place where we refer to it as  
9 the wrong side of M Street and it's now become  
10 the better side of M Street. I'm fairly pleased  
11 at that because I have some property there.  
12 However during recent years we've had a lot of  
13 local issues in the alley that goes between  
14 Thomas Jefferson Street and 31<sup>st</sup> and I sort of  
15 wonder if the purchaser has ever actually spent  
16 time at that particular location where he's  
17 proposing to put residential properties. If he  
18 has he should probably be aware that the normal  
19 restrictions on trash pickup and deliveries of  
20 7am which applied to 30<sup>th</sup> Street and Thomas  
21 Jefferson and 31<sup>st</sup> do not apply to this working  
22 alley which happens to be located between a fish

1 market which has been there since 1937 and 3  
2 restaurants which have changed ownership, as  
3 things in Georgetown do but they're still  
4 restaurants. So the dumpster unloading starts at  
5 about 4:35 in the morning and is usually finished  
6 by the time, by 7am when the city comes around  
7 and picks stuff up in front of my house. About  
8 that time the delivery trucks show up and..

9 CHAIRPERSON MOLDENHAUER: Mr. Malton  
10 you're going to have an opportunity if we grant  
11 you party status to actually explain some of your  
12 concerns right now what I'm trying to do is I'm  
13 just trying to understand if you qualify for  
14 party status. I'm just trying to see what your  
15 major concern is. If you could just identify  
16 what your objections are and how they relate to  
17 your property.

18 MR. MOLTAN: The objections are the  
19 establishment of another tall building on the  
20 other side of Thomas Jefferson Street which  
21 essentially is taking an old pure Georgetown  
22 townhouse and turning it into a commercial

1 establishment. They're destroying the  
2 residential ambience as it were on both sides of  
3 the street that starts at Barnes and Nobel on one  
4 side and the Monticello on the other and goes  
5 down to the C&O Canal, all small residential  
6 houses.

7           CHAIRPERSON MOLDENHAUER: I don't have  
8 any other questions and I see no issues with  
9 these two Applicants now that they've clarified  
10 some concerns. Do any Board Members have any  
11 questions or concerns about granting party  
12 status?

13           MR. HOOD: Madam Chair I just know on Mr.  
14 Malton's Application he lists a number of other  
15 people who, is he speaking for all those people?  
16 So in other words to be granted party status  
17 something has to be unique and I'm looking here  
18 at 10 other names so is he representing all these  
19 people or is he uniquely effected different from  
20 these people? These people here on your list of  
21 your petition.

22           CHAIRPERSON MOLDENHAUER: Can you answer

1 that Mr...

2 MR. HOOD: On your application you have a  
3 list of other, how does this project going  
4 forward affect you differently than the 10 people  
5 or so you have on your petition?

6 MR. MOLTAN: There's 12 other ones and  
7 pretty much the same they're going to affect all  
8 these people because they're my neighbors.

9 MR. HOOD: Okay thank you Madam Chair.

10 CHAIRPERSON MOLDENHAUER: Does the  
11 Applicant have any remarks or any objections to  
12 both of these individuals being granted party  
13 status.

14 MR. TUMMONDS: We have no objection to  
15 Mr. Davidson's request of party status we believe  
16 he does satisfy the standards of someone being  
17 significantly and distinctly and uniquely  
18 affected as the adjacent property owner. I would  
19 follow up on Commissioner Hood's discussion  
20 saying that while I think Mr. Malton very much  
21 has the opportunity to raise the issues that he  
22 did as a person in opposition I do not believe

1 that Mr. Malton and the 12 other people on his  
2 list have adequately satisfied the requirements  
3 to show that they are significantly, distinctly  
4 or uniquely effected in character or kind by the  
5 proposed Zoning action. It might be helpful to  
6 understand the difference between party status  
7 versus person.

8 CHAIRPERSON MOLDENHAUER: Mr. Malton do  
9 you understand what's happening here is we have  
10 the Applicant objecting and we have a question  
11 specifically brought up by one of the Board  
12 Members. Under item number 6 in order to qualify  
13 for party status you have to show that you are  
14 uniquely or distinctly effected and by having a  
15 list attached with 6 or 7 or 8 different people  
16 which are all effected in the same way, as you  
17 indicated that you all are effected in the same  
18 way. It kind of goes against potentially you  
19 being granted party status. Now you can still  
20 stay here today and we'd like to hear from you  
21 potentially and you could be provided with 3  
22 minutes we are typically flexible with that to

1 provide your specific objections. But you would  
2 maybe not get party status if that's something  
3 you'd be willing to stay here and at least  
4 testify. If you have party status you get a  
5 longer period of time, you'd be provided split 60  
6 minutes between you and the other party status  
7 applicant. I don't know if you are going to use  
8 that whole time, I hope that you won't but you're  
9 obviously permitted to use that entire timeframe  
10 if you want. You'd also be permitted to ask  
11 cross examination questions of the Applicant if  
12 you have a party status application. It may not  
13 be something that is appropriate for kind of what  
14 you're looking for in regards to being here and  
15 providing your opposition.

16 MR. MOLTAN: To this I would like to say  
17 yes I think that other people who are actually  
18 physically closer to the proposed construction  
19 are much more aggravated by it than I am because  
20 I am across the street. A number of these people  
21 are almost adjacent to Mr. Davidson's property  
22 and the location of the proposed construction.

1 So if they were here I think they would voice  
2 louder objections than I might be taken seriously  
3 because I'm across the street. Thank you very  
4 much for your observation.

5 CHAIRPERSON MOLDENHAUER: Thank you very  
6 much Mr. Malton we're going to give you time to  
7 have a 3 minute statement later on during the  
8 hearing but we're going to deny your request for  
9 party status. So if you want to wait just in one  
10 of the seats in the rest of the room I'll call  
11 and I'll ask for an opportunity for individuals  
12 in opposition. You can come forward at that  
13 point in time and you'll be given an opportunity  
14 to express any and all of your concerns in  
15 opposition for this application.

16 MR. MOLTAN: May I ask questions at that  
17 time also?

18 CHAIRPERSON MOLDENHAUER: You can raise  
19 questions but you cannot ask questions of the  
20 Applicant at that time.

21 MR. MOLTAN: And who should I raise these  
22 questions too?

1           CHAIRPERSON MOLDENHAUER: You raise these  
2 questions to the Board and you say these are some  
3 of my concerns, these are some of my questions  
4 then obviously we as the Board can then in turn  
5 kind of look to the Applicant for some answers.

6           MR. MOLTAN: So I may address the Board  
7 with a number of questions?

8           CHAIRPERSON MOLDENHAUER: Absolutely.

9           MR. MOLTAN: Thank you very much.

10          CHAIRPERSON MOLDENHAUER: At this point in  
11 time and the procedural issues Mr. Malton will  
12 obviously come back and he'll testify the 3  
13 minute individual in opposition. Mr. Davidson  
14 you're granted party status so you will be  
15 granted the opportunity to cross examine any of  
16 the Applicant's witnesses if you wish. If you  
17 don't wish you can obviously just indicate that  
18 you have no questions at that time. So at this  
19 point in time I'm going to turn to Mr.  
20 Outerbridge Horsey and Mr. Tummonds to present  
21 their case.

22          MR. TUMMONDS: We have two more

1 preliminary matters. First we submitted for the  
2 record earlier today a CV of Mr. Horsey and we  
3 would ask that he be admitted as an expert  
4 witness. It's my understanding that Mr. Horsey  
5 has been accepted by the BZA as well as the  
6 Zoning Commission as an expert witness in the  
7 field of Architecture.

8 CHAIRPERSON MOLDENHAUER: Okay I think  
9 we're all just looking for this and Mr. Horsey  
10 has been before us many other times. I have no  
11 issues with him being qualified as an expert in  
12 Architecture. Do any other Board Members have  
13 any questions for Mr. Horsey? Seeing none then  
14 he's so granted.

15 MR. TUMMONDS: Great. The second  
16 preliminary matter we have this afternoon is as I  
17 noted in the cover letter to our prehearing  
18 statement on April 12<sup>th</sup> we are requesting relief  
19 from Section 3113.13 of this case as when the  
20 notice of the application was published in the  
21 D.C. Register it did not note the need for the  
22 court variance relief and the special exception

1 from the parking spaces. Those additional areas  
2 of relief were necessary because of changes that  
3 were made to the project since the filing of the  
4 application in response to issues raised by the  
5 Old Georgetown Board and the Foundation for the  
6 Preservation of Historic Georgetown. We believe  
7 that relief is appropriate for the BZA to allow  
8 those areas of relief to be heard today as that  
9 there will be no prejudice to the rights of any  
10 party to hear those cases. I would note that on  
11 April 4<sup>th</sup> when the presentation was made to ANC 2-  
12 E in which had adopted a resolution in support of  
13 this case. Both of those additional areas of  
14 relief were presented. The ANC supported all of  
15 the areas of relief. In addition when the  
16 property itself was posted, the posting of the  
17 property noted the additional areas of relief.  
18 The last thing would be the extent and nature of  
19 this project is not different than when it was  
20 originally published in the D.C. Register. At  
21 all times this has been a project of an addition  
22 to an historic structure that would include

1 residential and commercial offices uses.

2 MR. JORDAN: Madam Chair am I missing an  
3 application to amend the application?

4 CHAIRPERSON MOLDENHAUER: Its actually in  
5 the prehearing statement they identify this issue  
6 as well in the prehearing statement. Typically  
7 we don't require a separate notification or a  
8 separate motion to amend but they do state that  
9 in their prehearing statement at the request...

10 MR. TUMMONDS: Also to Commissioner  
11 Jordan in the prehearing statement that we  
12 submitted in April 12<sup>th</sup> we fully laid out how we  
13 believe that we satisfy the court variance  
14 requirements and the special exception relief for  
15 the removal of the 3 parking spaces.

16 CHAIRPERSON MOLDENHAUER: In my opinion I  
17 think that since a variance which is one of the  
18 highest standards in regards to our BZA review is  
19 already been notified to the public in addition  
20 not just in regards to your posting but also to  
21 all the letters that went out. That standard was  
22 already being informed so neighbors understood

1 the high level of relief that was being sought to  
2 start with in regards to the rear yard. Since  
3 the publication of the notice did include the  
4 additional parking relief that's being sought and  
5 the ANC was informed of that, I have no concern  
6 over this. Let me see if any Board Members have  
7 any issues with the notice?

8 MR. HINKLE: No I agree with you Madam  
9 Chair.

10 CHAIRPERSON MOLDENHAUER: Mr. Davidson do  
11 you have any remarks on this issue as a party  
12 status applicant?

13 MR. DAVIDSON: I have no objection.

14 CHAIRPERSON MOLDENHAUER: Thank you.  
15 That being said then we'll waive our requirements  
16 for any notice requirements and we can move  
17 forward.

18 MR. TUMMONDS: Great! Good afternoon  
19 Madam Chair, Members of the Board. I'm Paul  
20 Tummonds with Goldsten and Storrs as noted in our  
21 prehearing statement as we just discussed in  
22 response to changes to the proposed project

1 requested by the Old Georgetown Board the  
2 Applicant is seeking variance relief from the  
3 rear yard and court requirements and special  
4 exception relief from the parking space  
5 requirements in order to renovate the existing  
6 historic structure at 1072 Thomas Jefferson  
7 Street, N.W. and construction addition to that  
8 structure. The proposed project will offer the  
9 introduction of 5 residential units on the  
10 property along with the renovation of the  
11 existing commercial office space. On April 12<sup>th</sup>  
12 we submitted a detailed prehearing statement into  
13 the record of this case which we believe clearly  
14 details how this project satisfies the variance  
15 and special exception standards for the requested  
16 relief. I am happy to note that this application  
17 has received the support of ANC 2-E, the  
18 Foundation for the Preservation of Historic  
19 Georgetown, the Old Georgetown Board and the  
20 Office of Planning. Our first witness this  
21 afternoon will be Outerbridge Horsey the project  
22 Architect. Mr. Horsey will provide testimony

1 regarding the historic property and surrounding  
2 area, the proposed renovation of the existing  
3 historic structure and the proposed addition.  
4 Mr. Horsey will then highlight the project  
5 satisfaction of the practical difficulty  
6 standards of the variance relief requested. Our  
7 second witness will be Julio Murillo of the MMG  
8 Group, the contract purchase of their property.  
9 Mr. Murillo will discuss the existing situation  
10 in the adjacent alley, to the rear of the  
11 property and will address the satisfaction of the  
12 special exception standards for the proposed  
13 parking relief. Our final witness will be Don  
14 Malnati also of MMG Group and he will discuss the  
15 construction mitigation measures that will be  
16 taken by the Applicant to address concerns that  
17 have been raised by some members of the  
18 surrounding community. We have submitted a  
19 document into the record of this case which  
20 details these construction mitigation measures  
21 and we are proposing that these measures be  
22 included as a condition of the BZA's approval of

1 this project. I will now let Mr. Horsey present  
2 his testimony.

3 MR. HORSEY: Good afternoon Madam Chair,  
4 Members of the Board. I'm Outerbridge Horsey and  
5 I will just walk you through and come to discuss  
6 as much detail as you'd like. Let me start with  
7 the environments, you have before and after site  
8 plans in your booklet. I think this is probably  
9 a slightly more useful way to look at the project  
10 and its context. Our property is right here to  
11 the historic house a D.C. designated landmark.  
12 This is Thomas Jefferson Street here, this is the  
13 Barnes and Nobel, M Street and the Commercial C2-  
14 A District is up here. This is where the W1  
15 Waterfront District starts and goes south to the  
16 Canal. This shows the proposed addition in the  
17 context of the building to the north. This is  
18 Mr. Davidson's property, this is the neighbor to  
19 the south who incidentally I think there's a  
20 letter of support in the file from that property  
21 owner. The property is surrounded by commercial  
22 buildings in the back, as Mr. Malton pointed out,

1 and mixed use commercial, mostly residential  
2 structures initially but now operated as both  
3 commercial and residential on Thomas Jefferson  
4 Street. This shows the property from the rear,  
5 this again is Mr. Davidson's property here, this  
6 is our proposed project and this is the neighbor  
7 to the south. The division line between the C-2-  
8 A District here and the W-1 Waterfront District  
9 follows this alley, this is the same alley that  
10 Mr. Malton mentioned, and it snakes around  
11 through here going from Thomas Jefferson to 31<sup>st</sup>.  
12 We had originally showed a parking garage that  
13 we removed in response to the Old Georgetown  
14 Board Comments and also the congestion of the  
15 alley that he referenced.

16 CHAIRPERSON MOLDENHAUER: I'm sorry could  
17 you just go back to that last picture? Can you  
18 point out where the fish market is?

19 MR. HORSEY: Cannon's is this building  
20 right here I believe. This is the restaurant the  
21 Paper Moon.

22 CHAIRPERSON MOLDENHAUER: The Paper Moon,

1 okay.

2 MR. HORSEY: The alley goes around to the  
3 south slightly so it has a T-shaped at the end  
4 and actually serves some of the resident's  
5 properties along the canal. These are all open  
6 space parking lots here off 31<sup>st</sup> Street. This  
7 shows some context of the W-1 District and I  
8 think one thing, the main characteristic I'd like  
9 to point out is that in the development over the  
10 past 30 or 40 years it's a fairly well developed  
11 characteristic of this District that multi-story  
12 newer buildings are adjacent to and directly in  
13 back of historic 2-story buildings from different  
14 areas. This is us on Thomas Jefferson Street  
15 here and these are various other locations within  
16 2 or 3 blocks of the subject property. These  
17 photographs show the context of the site, this is  
18 our building again in the middle here and this  
19 shows us looking up the street at Thomas  
20 Jefferson towards Barnes and Nobel and M Street  
21 and then looking south. This is the rear of the  
22 property; this Mr. Davidson's building here. The

1 property owner to the south who's in support of  
2 our project, this is our site here and again  
3 right here. This is a view from 31<sup>st</sup> Street which  
4 is really a very limited view of the subject  
5 property. Starting at the first floor this is  
6 Thomas Jefferson here and I'll run through the  
7 various plans and the areas where we're  
8 requesting relief. The areas in pink here show  
9 the various courts that we're asking for. The  
10 rear yard is back here along the public alley  
11 this is where normally the regulations would  
12 require us to be set back 12 feet which you can  
13 see would bring us right back up into the stair  
14 core and element about 40% of our building. This  
15 is an existing property here built in two periods  
16 in the 19<sup>th</sup> Century, this around 1810, and this  
17 around 1890 I believe. This is an existing side  
18 yard, because we have residential use on the  
19 first floor the court requirement is 10 feet, we  
20 have a little over 6 feet on this court, it  
21 becomes a court once we enclose it and put the  
22 building at the back. That's one of our courts,

1 the other two smaller courts that we discussed  
2 with the Office of Planning for this bay window  
3 here there really could be considered court  
4 niches but we thought we should consider them  
5 courts just to be sure; they're about 30 inches  
6 wide on either side of this bay window. These  
7 occur only on the first floor. On the upper  
8 floor and second floor we have commercial  
9 throughout the existing building and residential  
10 in the back. This is the upper part of this same  
11 court I mentioned before. There's a third court  
12 that was a result of the Old Georgetown Board  
13 pushing our building further back and exposing  
14 this one row of windows in Mr. Davidson's  
15 building and we have about a 7 foot dimension  
16 here where again 10 feet is required. This only  
17 occurs at the second floor level. At the first  
18 floor level you can see there's a connector here  
19 and at the fourth floor level we're above the  
20 roof. So in the addition we have four units,  
21 duplex units on the third and the fourth floor  
22 here, actually 5 units on the second floor and a

1 study apartment on the first floor and the other  
2 part of the first floor is connected to the main  
3 building as commercial space. There is a  
4 proposal for a seller as well in the under  
5 portion of the rear. This shows the rear façade  
6 alongside the alley with the door to the trash  
7 room as you can see here that's required. This  
8 is an important point, I think, that throughout  
9 the process there was very little limited  
10 visibility from Thomas Jefferson, this is a  
11 sightline taken from the far east side of Thomas  
12 Jefferson and by moving the building back  
13 approximately 8 feet or 7 feet you can't see over  
14 the existing building you can't see our new  
15 addition from Thomas Jefferson Street so it  
16 really has no impact on the Historic Streetscape  
17 of Thomas Jefferson Street. You can also see in  
18 this photograph 3 of the at risk windows that are  
19 in the south side of Mr. Davidson's building had  
20 been left open for daylight. Coming back to the  
21 practical difficulty Paul mentioned that we  
22 started out developing the practical difficulty,

1 well we faced the initial practical difficulty  
2 before we got the go at Georgetown Board. The  
3 easement that's held by the Foundation for the  
4 Preservation of Historic Georgetown, that  
5 easement actually allowed significant demolition  
6 work to be done to this historic building to add  
7 a third floor and so on and so forth to it and  
8 also had a certain amount of open space that was  
9 required. We made this proposal to them and  
10 agreed with this with their support to put the  
11 whole house under easement that nothing could  
12 happen to the rear part of the existing house and  
13 they allowed us to occupy a certain amount of the  
14 open space but they insisted that the amount of  
15 space next to the existing structure be left  
16 unoccupied and that we couldn't add above it as  
17 well. That was our initial practical difficulty  
18 as well as a uniqueness standard. Then we went  
19 to the Old Georgetown Board so that meant all the  
20 development had to be back here. The Old  
21 Georgetown Board made us push the building back  
22 farther and about 15% of our building we lost in

1 terms of FAR here. In doing that we moved the  
2 core back and that's when we eliminated the  
3 parking because we couldn't fit cars on the first  
4 floor, down in this area anymore because the core  
5 is as small as it could be as well. The rear yard  
6 now comes almost as far as the west side of the  
7 core. So if we were to have to comply with the  
8 rear yard we basically lose not quite half but  
9 40% of our building. We've justified that, we're  
10 under the lot occupancy requirement so all of our  
11 open space is in the center of the block where it  
12 could benefit especially the neighbor to the  
13 south and anyone from the street that looks down  
14 the side yard. So the open space is still there  
15 and usable it's just not at the back of the  
16 building. Furthermore the existing 19 foot alley  
17 gives a requirement or the beneficial, not  
18 required, light and air for our building just as  
19 it does for Mr. Davidson's building which  
20 incidentally doesn't have a rear yard either.

21 MR. TUMMONDS: One question Mr. Horsey  
22 could you explain if in fact the project was

1 required to satisfy the rear yard requirement  
2 would there be a depth of residential floor space  
3 that would create marketable units?

4 MR. HORSEY: No there wouldn't be. I  
5 think Mr. Malnati and Mr. Murillo can testify to  
6 that as well. If we had to set this back 10 feet  
7 we would lose even more and they would not be  
8 marketable units at all. They're extremely small  
9 units as it is but still in their current states  
10 we believe they are marketable. But if we had to  
11 setback either for the court in the front of the  
12 building farther or for the rear yard in the back  
13 they wouldn't be marketable at all.

14 MR. TUMMONDS: Thank you. I'll now have  
15 Mr. Murillo present his testimony.

16 CHAIRPERSON MOLDENHAUER: Ok let me ask  
17 you first see if Mr. Davidson do you have any  
18 questions for Mr. Horsey?

19 MR. DAVIDSON: Two questions, Outer if  
20 you could go back to the view from the southeast  
21 and explain just carefully each one of the  
22 properties, which property is which on that view?

1 MR. HORSEY: Southeast or southwest?

2 MR. DAVIDSON: Southeast.

3 MR. HORSEY: This is our property here  
4 running through from Thomas Jefferson Street to  
5 the alley behind. This is Mr. Davidson's  
6 property at 1074-76 Thomas Jefferson Street  
7 including a 4-story in the back all connected and  
8 this is the property in the back all connected.  
9 This is the property to the south 1070 that has  
10 an open court in the middle similar to ours and  
11 that's the property that's in support of our  
12 project.

13 MR. Davidson: Where's the old house is  
14 that yours?

15 MR. HORSEY: 1070 Thomas Jefferson  
16 Street, that's our property.

17 CHAIRPERSON MOLDENHAUER: Mr. Malton I'm  
18 sorry I know that there may be some questions but  
19 at this point in time you can't ask questions and  
20 you're also not on the microphone so at this  
21 point in time I'm not going to take any questions  
22 from you. But Mr. Davidson if you have any

1 follow up questions you can please continue.

2 MR. DAVIDSON: If we could look at the  
3 diagram of the courts and the courts that are  
4 non-conforming maybe I missed part of the  
5 introduction. I believe Mr. Tummonds said that  
6 the courts were added to the list of variances at  
7 a later date because they were changes made by  
8 OGB. That's certainly true for the courts in the  
9 west part of the property but I believe it's not  
10 true for the east part of the property is that  
11 true?

12 MR. TUMMONDS: I can address that. What  
13 happened was when OGB required that the whole  
14 building be pushed back that pushed the stair  
15 court back so on that ground floor of that  
16 building that previously had parking spaces we  
17 put residential use. By putting residential use  
18 on that floor required a court of 10 feet so when  
19 it was just commercial office space on that  
20 ground floor the, what is now the non-conforming  
21 side yard when it miraculously morphed itself  
22 into a court on a building at the first floor

1 level that was just commercial use that was a  
2 conforming court. By introducing residential use  
3 into that ground floor the court morphed once  
4 again from a non-conforming side yard into a non-  
5 conforming court. I think what we've add to it  
6 that's noted in our prehearing statement the  
7 practical difficulty we're faced with addressing  
8 the court along Thomas Jefferson Street is the  
9 only way we could in effect fix that would be to  
10 a. Remove part of the historic building on Thomas  
11 Jefferson which would not be a scenario that  
12 either OGB or the Foundation for Preservation of  
13 Historic Georgetown would approve or we would for  
14 lack of a better term fill that in. Again a  
15 situation that we do not believe the Old  
16 Georgetown Board or the Foundation for the  
17 Preservation of Historic Georgetown would agree  
18 would be appropriate. We would not on the  
19 portion of the court that is less than 10 feet  
20 wide that is the portion of the court that in  
21 fact abuts commercial use, the commercial use  
22 that would make that an appropriately sized

1 court. There's a portion of the court on the  
2 ground floor that is of a width that is required  
3 of residential use that we don't believe is  
4 sufficient but for the two areas that are, I  
5 think probably court niches but out of abundance  
6 of caution we have also noted those two little  
7 court area adjacent to the bay projection.

8 CHAIRPERSON MOLDENHAUER: Mr. Davidson  
9 did that answer your question and do you have any  
10 further questions? No further questions. Do  
11 Board Members have any question for Mr. Horsey?  
12 Seeing none call your next witness.

13 MR. HOOD: I may have some but not right  
14 now.

15 CHAIRPERSON MOLDENHAUER: I think I may  
16 have some as well but I'm going to hold mine off.  
17 We'll ask the Board again.

18 MR. MURILLO: I'm Julio Murillo with  
19 Murillo Malnati Group we're the contract  
20 purchasers of the property. About 8 months ago  
21 when we decided to take on this project we looked  
22 at it. Our approach to developing the project

1 was based on the need for relocation of our  
2 office. We feel that this property satisfies  
3 those requirements. We like the area we feel  
4 that by becoming residents of the area we will  
5 take a different kind of ownership as opposed to  
6 a pure investment property. So when we  
7 approached the property and the design of it we  
8 felt that we needed to understand the traffic  
9 patterns, the requirements and also bring value  
10 to a structure that's been in semi-abandonment  
11 for quite awhile. The existing property is a law  
12 firm its own by the law firm that occupies the  
13 space that's currently commercial. The area is  
14 primarily commercial; there are some residential  
15 components around the area. In fact the unit to  
16 the south is a mixed use similar to what we're  
17 trying to do. So when we approached this we  
18 figured the challenges that we faced. What can we  
19 do in terms of design to create value and make  
20 the property a good investment for our office and  
21 also satisfy the needs and the requirements, the  
22 code requirements as well as the historic

1 components of the site? So that's one of the  
2 reasons that our application is changed is  
3 precisely because we have been very adaptive to  
4 the needs and to the requests of the various  
5 different entities that have weighed in on this  
6 starting with the foundation, later on with the  
7 Old Georgetown Board as well as the ANC. The  
8 results of which you can see here is as Paul just  
9 described there's areas of adjustments and non-  
10 conforming situations. I can't really say much  
11 more in addition to what's been said about the  
12 request to move the building, the new addition  
13 back and the location of the core as a  
14 consequence of that. So when we looked at that  
15 what became very obvious for two reasons first  
16 because of the required positioning of the new  
17 building as well as the condition of the alley  
18 which we later understood to be very congested.  
19 Also understanding that the market conditions  
20 there perhaps don't require, or don't benefit  
21 from having parking. We figured we would  
22 actually respond to some of the concerns of the

1 neighborhood. The alley's congested, when we  
2 visited the site it was always congested it was  
3 difficult to park. As you can see the pictures  
4 that you see on the easels are precisely what I'm  
5 talking about that's a daily condition. There's  
6 a restaurant on the other side of the alley,  
7 there's also the seafood market, there's  
8 deliveries. One part of the alley that you can't  
9 see is the Barnes and Nobel end of the alley  
10 where deliveries are made, trash is removed; it  
11 is a very congested alley. It would not benefit  
12 our potential tenants in the future apartment  
13 units to have parking on the site we realized  
14 that and it happens to coincide with some of the  
15 opposition and it also coincides with the OGB and  
16 Foundation review of our application. So when we  
17 redesigned the building we figured okay let's add  
18 residential in that space, let's move the  
19 building back and lets also give our neighbor to  
20 the north some preservation of their at risk  
21 windows. So I guess what I'm describing here is  
22 the process through which we have adapted and

1 responded to the needs of all the parties  
2 involved.

3 MR. TUMMONDS: Mr. Murillo could you talk  
4 about the survey that you did of the existing  
5 parking spaces available and commercial garages  
6 nearby?

7 MR. MURILLO: Yes in removing the parking  
8 requirement request we still, because of our  
9 office use and future tenant use we felt that it  
10 was necessary to address the parking needs. So  
11 we did a survey of the surrounding parking  
12 garages fortunately we are very near the Colonial  
13 Parking Headquarters and they are practically 2  
14 or 3 doors down on Thomas Jefferson Street. They  
15 identified I think it was 5 different garages in  
16 a 4 block radius where there's ample parking for  
17 our needs and for the needs our tenants and not  
18 only that but also for the needs of our  
19 construction crews. When we go into the  
20 construction of this project the challenges  
21 facing the alley, the congestion, they are  
22 equally difficult for our construction project.

1 We felt that as we've done on other projects we  
2 need to provide that kind of relief by using the  
3 parking facilities around the area and that's  
4 what we intend to do.

5 MR. TUMMONDS: Perfect, that's a nice  
6 transition into now I'll have Mr. Malnati discuss  
7 the construction mitigation measures that we  
8 propose to take as well as how we expect  
9 construction to occur on the property.

10 CHAIRPERSON MOLDENHAUER: Okay I actually  
11 have a couple of questions. Mr. Murillo you said  
12 office use what type of business, I just didn't  
13 see it in the application.

14 MR. MURILLO: We are real estate  
15 developers and a construction company.

16 CHAIRPERSON MOLDENHAUER: Okay, so you're  
17 in and out of your office then a lot?

18 MR. MURILLO: I personally am yes.

19 CHAIRPERSON MOLDENHAUER: Okay and the 5  
20 garages near you, you said within 4 blocks do you  
21 remember which ones those were. I know we've had  
22 a couple of applications especially on Thomas

1 Jefferson with other parking relief. I think we  
2 had one of the colleges there was like a  
3 University of Maryland or Johns Hopkins College  
4 there was a whole bunch of different schools that  
5 have been, someone else will remind me at a later  
6 date but I know we've had a whole bunch of  
7 applications on this block also that had parking  
8 relief. I'm just curious which parking garages  
9 you were referring to.

10 MR. MURILLO: To my recollection I don't  
11 have a list here but there are two garages on  
12 Thomas Jefferson Street. As you go south on  
13 Thomas Jefferson towards the water on K Street  
14 there are fairly large commercial buildings that  
15 all have parking, that happens to benefit our  
16 application. There's also a garage on M Street,  
17 there's another garage managed by the same  
18 company on 31<sup>st</sup> Street, there's another garage in  
19 Georgetown Park.

20 CHAIRPERSON MOLDENHAUER: Did you inquire  
21 about, because I know, I grew up in this area and  
22 my parents live very close and I know there's a

1 lot of commercial, there's a difference between  
2 obviously commercial parking and residential  
3 parking. Did you inquire about evening  
4 residential parking because not all garages  
5 provide late tenant because if I'm living there  
6 parking versus office parking or shopping parking  
7 or things like that.

8 MR. MURILLO: All the garages that we  
9 researched provide monthly parking permits which  
10 are 24-hour parking.

11 CHAIRPERSON MOLDENHAUER: And they did  
12 have availability for monthly programs?

13 MR. MURILLO: They all have availability  
14 what we set out to find is 6 to 8 parking spaces  
15 in any one garage and they all have the  
16 availability to satisfy that.

17 CHAIRPERSON MOLDENHAUER: I guess this is  
18 just a question. Is there a reason why maybe  
19 you're not looking to obtain relief for offsite  
20 parking satisfying the offsite requirement  
21 versus? Especially in Georgetown I mean we're  
22 talking about an area Thomas Jefferson Street's

1 small, a one way street. I mean is there a  
2 reason why you didn't seek to maybe satisfy this  
3 offsite by obtaining a contract and going that  
4 route.

5 MR. TUMMONDS: What's interesting here is  
6 we have this kind of odd situation of if there  
7 were not three existing parking spaces on this  
8 property the use itself would not require parking  
9 because it is an existing historic structure and  
10 the parking requirements would only be 3 spaces  
11 rather than the 4 that would trigger having to  
12 provide parking itself. We think that based on  
13 the low expected demand for the site as Mr.  
14 Horsey noted. These residential units are not  
15 going to be large, I think that people are going  
16 to chose to live here probably will not be those  
17 people who will have, certainly not two, a couple  
18 will not have two parking spaces. We think that  
19 the demand for the office use again it's not a  
20 lot of office full square footage. We think that  
21 the proximity to public transportation on M  
22 Street all create a series of conditions where we

1 just don't expect a lot of parking demands for  
2 this type of use. So I think therein that kind  
3 of oddity we have of the relief from Section  
4 2120.6 where you have an existing historic  
5 structure when you look at 2120.6 it's really  
6 going to the notion of if you had a project that  
7 would trigger a parking requirement more than  
8 four spaces and you're just not able to do it you  
9 have to satisfy these requirements. In this  
10 situation we have a project that does not require  
11 more than 4 spaces yet there are 3 existing  
12 spaces there, we're removing those, we recognize  
13 that. We think that as Mr. Davidson noted, and  
14 has noted here the congestion in the alley is  
15 just something that we don't think people would  
16 want to utilize those spaces and we think the  
17 amount the supply of parking spaces in the  
18 immediate area will be sufficient to satisfy the  
19 parking demand. So I guess that's my long winded  
20 discussion as to why we didn't seek the off  
21 street parking requirements.

22 CHAIRPERSON MOLDENHAUER: Just one last

1 question that I have and then I'll see if any  
2 other Board Members or if the party status has a  
3 question. How many employees would you have  
4 working?

5 MR. MURILLO: We currently have in the  
6 office 10 employees that probably wouldn't change  
7 by much; the office space itself is not that big.  
8 It think with the excavated space below grade  
9 we'll end up with approximately 3,000 square feet  
10 of useable space, maybe a little bit less.

11 CHAIRPERSON MOLDEHAUER: Do any Board  
12 Members have any questions?

13 MR. HOOD: What's going on in this alley,  
14 it seems like an unofficial parking lot to me. I  
15 noticed from Mr. Davidson's one of his issues and  
16 I want to rally behind some of that or mention  
17 some of that about the traffic in the adjacent  
18 alley. What's going to happen with the alley  
19 after, I'm trying to remember whether it was this  
20 case or not. What's going to happen if this  
21 project is approved and goes forward what's going  
22 to happen with the alley?

1           MR. HORSEY: The only thing that's going  
2 to happen in the alley after this building is  
3 built is trash collection basically. The tenants  
4 or the owners in the building can go through the  
5 trash room if they want and out the back door. I  
6 guess that might be allowed, that won't be very  
7 attractive. The main entrance to the complex is  
8 going to be on Thomas Jefferson and currently  
9 there's already a trash pick-up at this property.  
10 So effectively in terms of usage there's not  
11 going to be any additional use in this alley that  
12 serves this building.

13           MR. HOOD: So you still, other tenants,  
14 other people who utilize that alley will still  
15 have use?

16           MR. HORSEY: Of course, yes. This truck  
17 can still park illegally here, that car can still  
18 park illegally here.

19           MR. MURILLO: One of the effects that we  
20 see is you can see from the picture on the left  
21 in the property that we're acquiring are there  
22 are 3 parking spaces and there's usually 3 cars

1 sometimes 4 using that space. The effect of  
2 removing the parking is those 3 or 4 cars won't  
3 be using the alley anymore. It will create some  
4 degree of decongestion.

5 MR. HOOD: So with the picture there and I  
6 know someone else showed some pictures with the  
7 alley perfectly clear at the same time of day  
8 I've seen that too. But right now the way that  
9 that alley is at least the pictures you found  
10 right now to bring us, that alley's not useable.

11 MR. MURILLO: Correct.

12 MR. HORSEY: Yes you're perfectly right  
13 at certain times you can drive through the alley.  
14 Now this person..

15 MR. HOOD: This was just a good set of  
16 pictures to bring in and show us.

17 MR. MURILLO: This is a daily occurrence  
18 it really is. Every time that we've been there  
19 and that's one of the things when we first looked  
20 at the property, one of the attractive features  
21 was the potential parking. As we visited the  
22 property repeatedly for meetings and to do site

1 visits or whatever we realized it was impossible  
2 to park in those spaces so we quickly came to the  
3 realization that they're not usable parking  
4 spaces and therefore adapted to that condition.

5 MR. HOOD: I'm not trying to champion Mr.  
6 Davidson's cause but in his application his party  
7 status application he just says that the traffic  
8 in the adjacent alley already is difficult and  
9 will increase the result of additional commercial  
10 and residential use. That's basically, how can  
11 you respond to that.

12 MR. MURILLO: Well that's precisely we  
13 designed the building to be entered from the  
14 Thomas Jefferson side. Remove the parking and  
15 provide whatever parking we will be needing  
16 offsite.

17 MR. HOOD: No those spaces, I think you  
18 only have 3 spaces but what about the rest of  
19 them. I know that's not your responsibility but  
20 that will still be happening apparently.

21 MR. MURILLO: We have no control over  
22 that.

1           MR. HOOD: But as far as the alley's  
2 concern we'll still have ingress and egress?

3           MR. HORSEY: That's correct and to the  
4 degree that there are residents back there who  
5 will call up the Metropolitan Police Department  
6 and say there are people illegally blocking the  
7 alley. I think ultimately how that problem is  
8 going to be resolved is through enforcement.  
9 It's a lot of people from the restaurant's  
10 workers from the restaurant and from the fish  
11 market using that as a parking lot, not as a  
12 functioning alley.

13           MR. HOOD: Alright thank you. Thank you  
14 Madam Chair.

15           MR. JORDAN: This Thomas Jefferson Street  
16 is very congested anyway, isn't it very narrow, a  
17 lot of cars?

18           MR. MURILLO: It's a one way street and  
19 over the last year or so it has undergone some  
20 renovation of the bridge over the canal. I think  
21 it was recently reopened, I'd say in the last 60  
22 days or so.

1           MR. JORDAN: And did I hear you say that  
2 you've made some arrangements for the office  
3 workers off street parking?

4           MR. MURILLO: That's our plan yes.

5           MR. JORDAN: That's your plan?

6           MR. MURILLO: Yes because we don't have  
7 an approval yet we haven't designed the project  
8 completely but as we go through the process and  
9 obtain permitting and financing and start the  
10 construction project we would provide the relief  
11 that way.

12           MR. JORDAN: In that area parking can be  
13 pretty steep to cost. Did you make some  
14 assessments as to what the...

15           MR. MURILLO: The cost of 24-hour monthly  
16 parking contracts ranges between 250 and 290  
17 dollars a month.

18           MR. JORDAN: I think one of the other  
19 things that were said was the assumption that  
20 people will use public transportation because  
21 they can get public transportation off of M  
22 Street. Isn't that a decent amount of distance

1 away from that site?

2 MR. MURILLO: No it's approximately 60  
3 yards maybe, 80 yards.

4 MR. HORSEY: It's right at the end of the  
5 block here, there's a bus stop right at the  
6 corner of Barnes and Nobel.

7 MR. MURILLO: One of the comments that Mr.  
8 Tummonds made is in our design of the residential  
9 units because the building is getting pushed back  
10 we ended up with smaller spaces and we still need  
11 a certain number of units to make the project  
12 feasible. We ended up with smaller units so we  
13 foresee typical renters on the lower end of the  
14 bracket, rental bracket. As Mr. Tummonds said  
15 typically our experience has been that lower rent  
16 paying tenants typically don't have cars because  
17 of the cost and the logistical hassle that's  
18 involved in owning a car in a congested area.

19 MR. JORDAN: I'm glad you said that  
20 again, you kept using the term the lower renters,  
21 what range are you talking.

22 MR. MURILLO: We're talking in terms of

1 one of the studio apartments is probably in the  
2 \$1500 a month range that's where it would start.  
3 That's as small as they get, I don't know the  
4 exact number but I'm guess that would be the  
5 price.

6 MR. JORDAN: I just wanted to make sure  
7 we were clear about when you talk about low, low  
8 is not really low.

9 CHAIRPERSON MOLDENHAUER: its Georgetown  
10 low, let's all be honest here come on.

11 MR. HORSEY: I just want to make one more  
12 point to your question about the parking. This  
13 is the rear elevation, this is Mr. Davidson's  
14 building, and this is the building to the south  
15 that does support our project. They actually  
16 when this building was built in the 80s they had  
17 two parking spaces, those spaces are gone now.  
18 The garage doors are still there, the spaces  
19 aren't used and it's now use as interior space.  
20 I don't know exactly why they gave up those  
21 parking spaces; I have my theory because it's  
22 hard to get in and out of,

1           MR. HOOD: What is the nearest Metro  
2 Station?

3           MR. TUMMONDS: I would assume it's  
4 probably Foggy Bottom.

5           MR. HOOD: I said this a thousand times  
6 before and I hate to say this again but I think  
7 when Metro wanted to build in Georgetown that's a  
8 missed opportunity. I think now there have been  
9 hearings where people want to tell me about  
10 traffic and I always ask them were you with the  
11 group that didn't want the Metro in Georgetown.  
12 I think that a lot of cases when they come before  
13 they say we're so many feet within the Metro. I  
14 think unfortunately this is a missed opportunity.  
15 I didn't say it to this Applicant; I really just  
16 said it for the record. So whoever reads this 10  
17 years from now they know that I said this, it was  
18 a missed opportunity, so thank you. Thank you  
19 Madam Chair.

20           CHAIRPERSON MOLDENHAUER: You're welcome.  
21 How many residential units are going to be  
22 proposed I know it's been said multiple times?

1 MR. MURILLO: Five.

2 CHAIRPERSON MOLDENHAUER: And what's the  
3 total square footage of each of those. You were  
4 saying that there's a certain number that has to  
5 be done in order to make the project feasible  
6 I've heard you say that a couple of times Mr.  
7 Murillo and I'm just trying to understand.

8 MR. MURILLO: Well there's a reality of  
9 the building code and there's a certain size  
10 requirement to make a unit a legal unit. I don't  
11 know the exact unit of the first floor space but  
12 I have to say it's probably under 500 feet, is  
13 that right?

14 MR. HORSEY: That's right.

15 MR. MURILLO: The larger unit is probably  
16 around 900 feet I'm guess, the largest. Is that  
17 right Outerbridge?

18 MR. HORSEY: Yes, it's maybe a little  
19 over 1000 I think the duplex units. Basically we  
20 would lose the studio unit in the back, we'd lose  
21 the one bedroom on the second floor and we'd lose  
22 the duplex on the third and fourth floor in the

1 back. So basically 3 out of our 5 units we would  
2 lose and we pick up a foot of space in the front  
3 units. One more thing on the public  
4 transportation this area is served not only by  
5 Metro bus but also by the circulator bus and the  
6 Georgetown operates a blue bus that goes to the  
7 Rosalind, Foggy Bottom and DuPont Circle Metros  
8 on a regular basis.

9 CHAIRPERSON MOLDENHAUER: Thank you. Mr.  
10 Davidson do you have any questions for Mr.  
11 Murillo?

12 MR. DAVIDSON: Either Mr. Murillo or Mr.  
13 Horsey could probably answer this. To date I  
14 haven't, during the hearing today, I haven't  
15 heard mention of any gross floor area or FAR  
16 numbers, commercial residential. At some point  
17 before we close I just need to know the split.

18 MR. MURILLO: Do you have that  
19 information Outerbridge?

20 MR. HORSEY: Yes we're just at 1 FAR  
21 commercial and our total FAR?

22 MR. MURILLO: Which is roughly 2917 feet I

1 think for commercial.

2 MR. HORSEY: its 2.3 total so that's 1.3  
3 residential and 1.0 commercial.

4 CHAIRMAN MOLDENHAUER: We're not asking  
5 for any FAR relief I just want to make sure that  
6 that's clear for the record. Any further  
7 questions Mr. Davidson?

8 Mr. Davidson: No thank you.

9 CHAIRPERSON MOLDENHAUER: Your next  
10 witness Mr. Tummonds.

11 MR. TUMMONDS: Our final witness will be  
12 Mr. Malnati and as mentioned he'll talk about the  
13 construction mitigation measures that will be  
14 undertaken.

15 MR. MALNATI: Hello Madam Chair, and  
16 Board. I'm a contractor; I've been a contractor  
17 in Washington for almost 30 years. We've done  
18 many properties where the construction area is  
19 very tight such as this. In general we have a  
20 program that we use and its outlined I believe in  
21 our submittal here. So the first thing that we  
22 would do would be to do a preconstruction survey

1 of the local properties and the exteriors and to  
2 sort of confirm what the existing conditions are  
3 so that if anything should happen it would be  
4 documented. Then we would certainly agree to  
5 repair if any damage that was caused during the  
6 construction process and we would in addition  
7 provide our sheeting and shoring and structural  
8 excavation drawings or any of the structural  
9 drawings we have to the adjacent property owners  
10 for their review and comments. Obviously it'  
11 sin our best interest to do this work correctly;  
12 we don't want to have any damage buildings  
13 connected with our work. Then we will put up the  
14 typical kind of construction fencing and  
15 barricades during the construction process and  
16 obtain any public space permits required. Just  
17 in general in examining the site and in planning  
18 the construction process it became very apparent  
19 to us that the alley was sort of really not a  
20 useable area for our construction procedures or,  
21 I mean we will probably need to get some  
22 equipment in there from the alley from time to

1 time. I see this construction project as being  
2 done almost entirely from the Thomas Jefferson  
3 Street side. The most ticklish parts of the  
4 construction which is the excavation and the  
5 sheeting and shoring that's required to make sure  
6 there's no damage as we're doing excavation  
7 because we are planning to put a basement below  
8 the addition. That would all be done it's a very  
9 small area and would be done with either very  
10 small machinery or more probably manually,  
11 wheelbarrows. All the excavated spoils would be  
12 brought up through that little 6 foot courtyard  
13 or passage way that we have there. We would plan  
14 to get a public space permit and put a truck or a  
15 dumpster in the front of the building and put a  
16 sort of a scaffold to cover the sidewalk it's a  
17 walk through or like pedestrian protection so  
18 that the sidewalk would not be closed. The  
19 street would not be closed and the work in  
20 general is just going to be done slowly and  
21 manually because it's not very accessible. It's  
22 a small amount of material to remove and that's

1 the way, we've done a lot of these sorts of  
2 buildings. That would be our basic approach,  
3 everything would come out through the Thomas  
4 Jefferson side and everything would come in  
5 through that unless there was some specific  
6 reason that we had to get into the back area. So  
7 in general I think that we would manage the  
8 project to avoid any kind of alley closures or  
9 problems and just stay out of that area and so  
10 that's the kind of the logistic, my logistical  
11 take on it. Then obviously we'd police the site  
12 on a daily and weekly basis to keep the area  
13 clean. So those are the measures that we plan to  
14 do specifically for this project and have done in  
15 general on all of our projects and sites like  
16 this.

17 MR. TUMMONDS: That concludes our  
18 presentation.

19 CHAIRPERSON MOLDENHAUER: Thank you. Any  
20 questions from the Board? Mr. Davidson?

21 MR. DAVIDSON: I assume a transcript of  
22 this is going to be available after the hearing?

1                   CHAIRPERSON MOLDENHAUER: Yes. Do any  
2 Board Members have any questions for any of the  
3 different Applicants? Seeing none then at this  
4 point in time we'll turn to Mr. Davidson and this  
5 is opportunity for you to present your case.  
6 There's a new order of procedure where we do the  
7 Applicant then we do any parties in opposition  
8 first. That way if there's any issues addressed  
9 then OP can address those as well. So it's read  
10 at the beginning of every morning hearing and  
11 every afternoon hearing, the procedure. So Mr.  
12 Davidson I'll turn to you for any presentation  
13 regarding your opposition.

14                   MR. DAVIDSON: Thank you I don't need  
15 anywhere close to 60 minutes.

16                   CHAIRPERSON MOLDENHAUER: Thank you.

17                   MR. DAVIDSON: It may come as no surprise  
18 to you that, of course, I have objected to this  
19 addition from the beginning through its  
20 presentations to the ANC as well as the OGB.  
21 This is relevant to you, the addition in general  
22 is relevant to BZA because in fact just the fact

1 that the building in the back is being  
2 constructed is a detriment to the general welfare  
3 of the community of Georgetown. This continues  
4 to degrade the general character of the area as  
5 well as the stark character of the houses, all  
6 the other houses on Thomas Jefferson Street. Of  
7 course most particularly our neat little four  
8 story building in the back which has always been  
9 a freestanding piece in the middle of the block,  
10 very unique character and now that will be  
11 destroyed. With regard to the rear yard the  
12 Applicant has discussed the fact that there is a  
13 need because of the approval process to continue  
14 to push the building back from Thomas Jefferson  
15 Street. Increasing the dimension from the street  
16 and increasing the dimension of the court.  
17 That's interesting that it detracts, takes away  
18 square footage from their building probably helps  
19 the people that face Thomas Jefferson Street that  
20 are going to be in that four story building. But  
21 the Zoning Requirement is for a rear yard and a  
22 rear yard is required probably for a reason,

1 light and air for the residences that will face  
2 that portion of the property. In fact there are  
3 several floors of this building that have units  
4 that face only the alley especially the one on  
5 the lowest level, the first floor. So if the  
6 Zoning requires a rear yard because of light and  
7 air, just because they have to setback on the  
8 front doesn't mean they should be relieved from  
9 providing it in the back. We have already  
10 discussed and looked at the alley and that alley,  
11 of course has many problems, but one of its main  
12 problems for residence is that it is really noisy  
13 all the time, it is really smelly all the time,  
14 and it makes a couple of floors of buildings back  
15 there uninhabitable unless they are pulled back  
16 from that alley. Mr. Horsey noted that, of  
17 course we don't have a rear yard which is true.  
18 We have a commercial building and we cannot put  
19 people on the first floor of the building it is  
20 impossible to do, even in a commercial building.  
21 Even the second floor of our building we have  
22 complaints and problems with people in the second

1 floor of our building because of the conditions  
2 of the alley. So how do we expect to put a  
3 residential building that faces the alley with no  
4 rear yard setback? So zoning is a minimum  
5 standard I see no reason why the minimum standard  
6 should not be absolutely required here because  
7 it's really necessary in this condition for the  
8 residential component. The other problem with  
9 the rear yard is that the W-1 Zone is supposed to  
10 be a mixed use residential/commercial zone which  
11 is why we like it and it's why it has the value  
12 that it does. We think it should be maintained  
13 as a W-1 Zone with a mix of commercial and  
14 residential. With all due respect to Mr. Murillo  
15 what is going to happen to this property over the  
16 course of a couple of years after he is not able  
17 to rent those units? Those units are going to be  
18 turned into commercial property and it's no  
19 longer going to be mixed use. So that's the  
20 extent of my argument for why the rear yard is  
21 absolutely required for this addition. Thank  
22 you.

1           CHAIRPERSON MOLDENHAUER: Mr. Tummonds do  
2 you have any questions?

3           MR. TUMMONDS: Sure Mr. Davidson you  
4 noted that the W-1 District is a mixed use  
5 District that encourages residential and  
6 commercial use. As well you noted your building  
7 does not have a rear yard. Is your building  
8 conforming to FAR?

9           MR. DAVIDSON: I actually haven't done  
10 rear yard calculations because it's all existing.  
11 My suspicion is that it's a little bit over the  
12 FAR but...

13           MR. TUMMONDS: So in fact your building  
14 is non-conforming as too commercial FAR so it's  
15 not really consistent with the W-1 nature of  
16 mixed use with a 1.0 commercial FAR with  
17 additional residential use?

18           MR. DAVIDSON: That is correct and it has  
19 been that way for a long time.

20           MR. TUMMONDS: No additional questions.

21           CHAIRPERSON MOLDENHAUER: Any questions  
22 from Board Members?

1           MR. JORDAN: Yes Madam Chair. Mr.  
2 Davidson in your application I believe for party  
3 status you indicated that this structure would be  
4 destabilizing. Do you have any evidence that's  
5 going to support that or is it just your  
6 assumption?

7           MR. DAVIDSON: It's my assumption based  
8 on 35 years of architectural practice in the  
9 District of Columbia that our building which is a  
10 brick building built in the early 19<sup>th</sup> Century has  
11 virtually no foundation to it. So anything done  
12 next to our building will adversely affect our  
13 building. As was stated at the beginning that's  
14 not your problem but it will become my problem.

15           CHAIRPERSON MOLDENHAUER: Yeah, it's  
16 unfortunate that obviously any issues regarding  
17 construction and sheeting and shoring or things  
18 to that affect would be something that DCRA is  
19 going to have to work with and approve and  
20 permission from neighboring properties and those  
21 things but unfortunately it's beyond the scope of  
22 our jurisdiction in regards to the BZA.

1           MR. JORDAN: I raised the question in  
2 light of some our previous hearings that we had  
3 of a bad situation and I just wanted to, and it  
4 just raised my attention.

5           CHAIRPERSON MOLDENHAUER: We had a case  
6 recently where a house was completely demoed from  
7 a neighboring property not doing the correct  
8 sheeting and shoring or structural underpinning  
9 during construction. It was a very emotional  
10 Applicant and so I think it just kind of stuck  
11 with us, stuck with some of us. That being said  
12 if there are no other questions then at this  
13 point in time I'm going to look to see if there  
14 are any individuals in the audience in support or  
15 in opposition. They can come forward and we'll  
16 permit them an opportunity to speak in support or  
17 in opposition. If you'd like to step forward at  
18 this point in time, and anybody else?

19           MR. MOLTAN: Thank you very much for  
20 letting me ask a few questions and to make some  
21 observations. Someone earlier mentioned  
22 residence approaching the back of this building.

1 There are no residents that live in the alley  
2 it's all commercial areas. There's three  
3 restaurants one on M Street backing up to this  
4 working alley. There are three on 31<sup>st</sup> Street  
5 backing up to this alley as well as the fish  
6 market. The views from these apartments will  
7 certainly not be very exciting if you look out  
8 the back you will see the pictures which we have  
9 seen there as well as a direct view down the  
10 blues alley onto Wisconsin Avenue. Looking out  
11 from the front you will get a beautiful view of  
12 the Hotel Monticello and of course there does not  
13 appear to be any windows on the side of this  
14 building as it will come up flush with the other  
15 buildings. Talking about parking again just  
16 looking here the address of the residents will be  
17 on Thomas Jefferson Street which means they will  
18 be eligible for residential parking permits. I  
19 should point out that on the west side of Thomas  
20 Jefferson Street the number of residential  
21 parking units on that whole side has slowly been  
22 reduced to three. This will add I don't know how

1 many people are going to live there, 3, 4, 5, 6,  
2 there are already 6 residences on the west side  
3 of the street. This will double the number of  
4 residential parking permits available to  
5 residents of the street as the number of  
6 residential parking spaces has shrunk to 3. I  
7 have watched over the past couple of years as the  
8 repair of the 30<sup>th</sup> and Thomas Jefferson Street  
9 Bridges have proceeded. Now they are down  
10 working on the 29<sup>th</sup> Street Bridge which of course  
11 takes away a route from downtown K Street for the  
12 SUV's and police escorts coming from the K Street  
13 Corridor. They now can't come up 29<sup>th</sup>, of course  
14 30<sup>th</sup> is one-way down, Thomas Jefferson Street is  
15 an alternative which they're using more and more  
16 as is 31<sup>st</sup> Street it's another block. They come  
17 up and they go down to the Four Seasons which is  
18 a choice of residents for many of these visiting  
19 dignitaries. The idea that a dumpster in front  
20 of this property and the people that either come  
21 take away the dumpster or bring in the various  
22 pieces of construction is going to essentially

1 put Thomas Jefferson Street as a very, very  
2 narrow corridor. I find it very difficult to  
3 believe that anybody is going to be able to build  
4 this building by coming down through a, I don't  
5 know if it's 6 or 7 or 10 foot alley with  
6 wheelbarrows full of bricks and I don't know what  
7 else. I just don't see how you can possibly do  
8 this without having access to the rear of the  
9 building and essentially clogging up a working  
10 alley. This is an observation, a unique  
11 observation from a resident who has participated  
12 in a lot of these attempts to upgrade  
13 particularly most recently was our local fight  
14 against rodents which fortunately we managed to  
15 get the alley in the back paved. We also got the  
16 fish market to agree to clean the fish someplace  
17 else and just sale them to retail establishments  
18 as to not attract the rats out back. Thank you  
19 very much for this opportunity.

20 CHAIRPERSON MOLDENHAUER: Thank you very  
21 much for coming down, I appreciate it. Any other  
22 individuals in support or in opposition? Seeing

1 none then at this point in time we'll turn to the  
2 Office of Planning for their report.

3 MS. BROWN-ROBERTS: Good afternoon Madam  
4 Chair and Members of the BZA. I'm Maxine Brown-  
5 Roberts from the Office of Planning. I think we  
6 applied the requirements of the variance of the  
7 special exception report and I stand on the  
8 record. The Applicant has (inaudible) and  
9 addressed many of the issues that we also covered  
10 in our report. Just to say that we think that  
11 there is a uniqueness due to an exceptional  
12 situation in that the property has been  
13 designated an Historic Landmark and is also  
14 subject to the (inaudible) and architectural  
15 façade easements. These both of these have put  
16 extra requirements on this property which are  
17 characteristics unique to this property and not  
18 to all the properties within the Georgetown  
19 Historic District. As a result we've had issues  
20 with the Applicant not being able to meet the  
21 rear yard and also the court, the 3 courts. The  
22 Applicant brought up one issue regarding courts

1 identified as 2A and 2B. We also were in an  
2 abundance of caution decided that we would assess  
3 them as courts instead of the court niche. The  
4 court niche requirement has a section that talks  
5 about that if it has a decorative thing and the  
6 portion of the building that I think is creating  
7 these courts I think is a little bit more than a  
8 decoration. It was hard to sort of make a better  
9 assessment since I didn't have a lot of the  
10 elevation on that front projection. I think that  
11 in either case there is uniqueness and a hardship  
12 or exceptional situation that has been  
13 demonstrated by the Applicant. The Office of  
14 Planning does not think that there will be a  
15 substantial detriment to the public good  
16 regarding the rear setback for the rear yard. We  
17 think that the alley has a width of I think  
18 around 19 feet and that the adjacent building  
19 with the various heights would allow the units to  
20 get some light and air. So we do not think that  
21 is a great detriment to the public good. On  
22 court 3 it will also provide some light and air

1 into the unit that is adjacent to that area as  
2 well as provide some relief to the adjacent  
3 building that has the at risk windows. We do not  
4 think that there will be a substantial detriment  
5 to the Zoning Regulation as the massing that is  
6 proposed is similar to adjacent buildings within  
7 the alley and also meets and maintains  
8 architectural integrity of the historic resource.  
9 Regarding the special exception for the parking  
10 we think that the Applicant has met all four  
11 requirements that are outlined and therefore we  
12 recommend approval of the requested variances and  
13 special exception. Thank you Madam Chair.

14 CHAIRPERSON MOLDENHAUER: Thank you. One  
15 of my questions is your report actually indicates  
16 that DDOT was going to be providing a report  
17 under separate cover?

18 MS. BROWN-ROBERTS: Yes.

19 CHAIRPERSON MOLDENHAUER: Do you know if  
20 they've actually followed up, and I'll ask Mr.  
21 Tummonds as well.

22 MS. BROWN-ROBERTS: My latest contact

1 with them was yesterday and I left a phone  
2 message asking if there were any comments and up  
3 to today I haven't received an answer. When I  
4 first spoke to them about the application right  
5 off the bat they said they did not see anything  
6 that had any overriding concern for them but that  
7 was just the preliminary application. Some of  
8 the issues that were brought up today were not  
9 discussed at that time.

10 CHAIRPERSON MOLDENHAUER: I'm going to  
11 turn to Mr. Tummonds. Have you had any dialog  
12 with DDOT?

13 MR. TUMMONDS: We have not had any  
14 response from DDOT to the materials that we  
15 submitted to them on April 12<sup>th</sup>.

16 CHAIRPERSON MOLDENHAUER: Do Board  
17 Members have any questions for the Office of  
18 Planning? Seeing none does the Applicant have  
19 any questions for Office of Planning?

20 MR. TUMMONDS: No questions.

21 CHAIRPERSON MOLDENHAUER: Mr. Davidson do  
22 you have any questions for the Office of

1 Planning?

2 MR. DAVIDSON: No.

3 CHAIRPERSON MOLDENHAUER: At this point  
4 in time we'll look to see if anybody from the  
5 audience is present here from ANC 2-E? Seeing no  
6 one I'll indicate that we have a letter "Exhibit  
7 27" which indicates that at a duly noticed  
8 meeting on April 4, 2011 with 7 Commissioners  
9 present constituting a quorum they unanimously  
10 adopted a resolution. The resolution states that  
11 ANC 2-E has no objection to the Application for  
12 rear yard variance, variance and open court  
13 requirements and the special exception regarding  
14 the removal of the parking spaces. That being  
15 said this letter does satisfy our requirements  
16 and it would receive great weight. Before we go  
17 back to the Applicant for any closing remarks,  
18 and I did have a question for Office of Planning,  
19 I'm sorry. You indicated that some of the  
20 confluence of factors was the specific façade  
21 easement. Is it not common, I'm just curious how  
22 many other properties potentially in this area

1 have, of this size, considering that it's a very  
2 small historic building, that have other  
3 easements to the Foundation for Preservation of  
4 Historic Georgetown.

5 MS. BROWN-ROBERTS: I didn't quite get,  
6 are you asking if other property is?

7 CHAIRPERSONMOLDENHAUER: If there are a  
8 lot of other properties. Is that unique that a  
9 property of this size and historic nature has  
10 such a façade easement?

11 MS. BROWN-ROBERTS: I'm sorry I didn't  
12 find out how many of the properties had this  
13 easement on their properties. But suffice to say  
14 I think that with the easement it was some of the  
15 requirements that were there that sort of really  
16 restricted the Applicant in how the addition  
17 could be laid out where we have seen in others  
18 that other spaces have been able to be filled in.

19 CHAIRPERSON MOLDENHAUER: Okay thank you.  
20 I guess no other questions at this point in time  
21 I'll turn to the Applicant for any closing  
22 remarks.

1           MR. TUMMONDS: Thank you very much. As  
2 evidenced by the information we have submitted  
3 into the record of our prehearing statement on  
4 April 12, 2011. Also in testimony presented here  
5 this afternoon the Applicant has satisfied the  
6 requested variance and special exception relief.

7       We note that this project is not requesting  
8 FAR, height or lot occupancy relief and that the  
9 amount of light and air that will be provided to  
10 the residents of this project is appropriate  
11 based on the court that we are creating as well  
12 as the significant depth of the alley to our  
13 rear. I would also note that by increasing the  
14 number of residents that live on this alley we  
15 believe that it is possible that additional  
16 policing of that alley will occur that will help  
17 create a more beneficial environment for all of  
18 the people who work or live on that alley.  
19 Moreover the Applicant has heard and responded to  
20 the concerns that have been raised by some  
21 members of the neighborhood regarding the  
22 potential impacts of this project. In response

1 to those concerns the Applicant has created  
2 construction mitigation plan that is offered to  
3 be a condition of BZA approval. I would note  
4 that in that construction mitigation plan the  
5 Applicant is proposing that we'll provide the  
6 adjacent property owners with the applicable  
7 plans and materials relating to all sheeting and  
8 shoring and/or underpinning that may be necessary  
9 on this property. In direct response to as  
10 Commissioner Jordan noted Mr. Davidson's concern  
11 about structural destabilization in his party  
12 status request. Finally we believe that the  
13 Applicant has created a project that will  
14 actually reduce the amount of vehicular traffic  
15 that exists in the already congested square. For  
16 all of these reasons the Applicant requests that  
17 you approve BZA Application No. 18201, thank you  
18 very much.

19 CHAIRPERSON MOLDENHAUER: Thank you very  
20 much. I thank everybody for coming down and  
21 participating. What I think we're going to do  
22 since it seems that there are a lot of questions

1 and most of the questions are concern about the  
2 traffic. Some of the relief being obtained, the  
3 rear yard going obviously so far back into the  
4 alley and some of the traffic concerns there in  
5 the alley. Since OP indicated on the record that  
6 we haven't really heard specifically from DDOT  
7 and our body particularly we like to hear from  
8 the agencies who it is their responsibility to  
9 govern and to provide us with their guidance and  
10 their perspective on these types of issues I  
11 think that what I'd like to do is I'd like to  
12 postpone this decision. We will not go into  
13 deliberation right now, today. But rather ask OP  
14 and the Applicant to both work with DDOT to  
15 communicate with them a lot of the concerns we've  
16 heard today. Assuming obviously OP will be  
17 expressing the concerns that we've heard on the  
18 record from the party status applicant and from  
19 other individuals in opposition regarding the  
20 alley and parking concerns. Then find out if we  
21 can't get something in writing from them  
22 regarding their position and their review of

1 this. So what we'll do is we'll put this on  
2 decision... How long do you think it will take  
3 potentially to get something back from DDOT?

4 MR. TUMMONDS: I would think that with  
5 what you have said today we can use that to help  
6 encourage DDOT to give us an expeditious  
7 response. I think that, what we're requesting  
8 from DDOT is not significant for them to prepare.

9 I think the degree that the shorter time frame  
10 that we give them, the more sense of urgency I  
11 think we can convey to them will be helpful.

12 CHAIRPERSON MOLDENHAUER: Okay right  
13 based on our new schedule we're only having one  
14 decision date a month based on the new open  
15 meeting requirement. We kind of rearranged our  
16 schedule in that regard. The soonest we could  
17 put this for decision without pushing it back  
18 until June would be May 17<sup>th</sup>. I think what we  
19 should do is we should put it on the calendar for  
20 decision for May 17<sup>th</sup> and have a request for DDOT  
21 to get us a report into our office by May 9<sup>th</sup>.  
22 Then that would provide both Party Status

1 Applicant time to potentially respond, and the  
2 Office of Planning to provide a supplemental  
3 report if they deem necessary and only if they  
4 deem necessary, into our Office by close of  
5 business on the 12<sup>th</sup>. Mr. Moy if DDOT serves us  
6 with the report will they provide that to the  
7 Party Status Applicant as well?

8 MR. MOY: Typically they don't serve the  
9 parties. I'm encouraging them to submit their  
10 reports directly to (inaudible). As well as  
11 copies to the Office of Planning.

12 CHAIRPERSON MOLDENHAUER: So I would ask  
13 that both our staff and potentially the Applicant  
14 as well communicate that Mr. Davidson have copies  
15 of that so if there is a desire to respond we're  
16 leaving the record open for response on that  
17 issue and on that issue alone. Unless obviously,  
18 somebody requests a motion to open the record for  
19 any other additional submissions. Other than  
20 that I think that's kind of the main thing that I  
21 see right now that we'd like to leave the record  
22 open for just to address potentially the DDOT

1 report. Again the dates would be to get a DDOT  
2 letter into office by May 9<sup>th</sup> and then any  
3 additional submissions in regards to responses  
4 from any parties by the 12<sup>th</sup> and then we'll have  
5 this set for decision on the 17<sup>th</sup>.

6 MR. TUMMONDS: Thank you.

7 CHAIRPERSON MOLDENHAUER: Thank you very  
8 much, thank you everybody. That actually  
9 concludes our hearing for today.

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