

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

IN THE MATTER OF:

PUD Modification at 1000-1010 Case No. 02-24/98-14C  
16<sup>th</sup> Street, N.W., (Solar  
Building) - Square 184,  
Lot 74

Monday,  
October 7, 2002

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing of Case No. 02-24/98-14C by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4<sup>th</sup> Street, Northwest, Washington, D.C., Anthony Hood, Chairperson, presiding.

PRESENT:

ANTHONY HOOD, Chairperson  
JAMES HANNAHAM, Commissioner  
JOHN PARSONS, Commissioner  
PETER MAY, Commissioner  
STEVE COCHRAN, Office of Planning

**NEAL R. GROSS**  
**COURT REPORTERS AND TRANSCRIBERS**  
1323 RHODE ISLAND AVE. N.W.  
WASHINGTON, D.C. 20005-3701

PRESENT - (Continued):

COMMISSION STAFF:

ALBERTO BASTIDA  
SHARON SANCHEZ

**NEAL R. GROSS**  
**COURT REPORTERS AND TRANSCRIBERS**  
**1323 RHODE ISLAND AVE., N.W.**  
**WASHINGTON, D.C. 20005-3701**

**(202) 234-4433**

**[www.nealrgross.com](http://www.nealrgross.com)**

## I-N-D-E-X

	<u>Page No.</u>
Preliminary Matters	6
Questions to the Applicant from the Commission	10
Questions of the Office of Planning, <b>STEVE</b> <b>COCHRAN</b>	18
Reports of Other Agencies	21
Report of the Advisory Neighborhood Commission 2B	21
Parties and Persons in Support	21
Parties and Persons in Opposition, <b>NIK MORADI</b>	22
Rebuttal by the Applicant	30

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

6:30 p.m.

CHAIRPERSON HOOD: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia for Monday, October 7, 2002. My name is Anthony J. Hood, and joining me this evening are Commissioners Parsons, May and Hannaham. Carol Mitten is not present, having recused herself from this case.

The subject of this evening's hearing is Zoning Commission Case No. 02-2498-14C. That is a request for JBG/6006 Limited Partnership, requesting permission to further modify a previously approved Planned Unit Development, Order No. 906, at 1000-1010 16<sup>th</sup> Street, N.W., (Square 184, Lot 74).

Notice of today's hearing was published in the D.C. Register on August 2, 2002 and in The Washington Times on August 21, 2002. This hearing will be conducted in accordance with the provisions of 11 DCMR, Section 3022.

Copies of today's hearing announcement are available to you and are located to my left near the door. The order of procedure will be as follows: preliminary matters, applicant's case, report of the Office of Planning, reports of other agencies, report

1 of Advisory Neighborhood Commission 2B, parties and  
2 persons in support, parties and persons in opposition,  
3 and rebuttal by the applicant.

4 The following time constraints will be  
5 maintained in this meeting. The applicant one hour,  
6 parties 15 minutes, organizations five minutes,  
7 individuals three minutes. The Commission intends to  
8 maintain these time limits as strictly as possible in  
9 order to hear the case in a reasonable period of time.

10 The Commission reserves the right to change the time  
11 limits for presentations if necessary and notes that  
12 no time shall be ceded.

13 All persons appearing before the  
14 Commission are to fill out two witness cards. These  
15 cards are located to my left near the door again.  
16 Upon coming forward to speak to the Commission, please  
17 give both cards to the Reporter, who is sitting to my  
18 right.

19 Parties may at any time object to any  
20 question posed to a witness by another party, or to  
21 evidence sought to be introduced into the record. If  
22 it is irrelevant, immaterial, or unduly repetitious,  
23 the Commissioners as well may request that such  
24 testimony or evidence not be received or that such  
25 evidence be struck from the record.

1           The decision of the Commission in this  
2 case must be based exclusively on the public record.  
3 To avoid any appearance to the contrary, the  
4 Commission requests that persons present not engage  
5 members of the Commission in conversation during a  
6 recess or at any other time. Staff will be available  
7 throughout the hearing to discuss procedural  
8 questions.

9           Please turn off all beepers and cell  
10 phones at this time so as not to disrupt these  
11 proceedings.

12           At this time, the Commission will consider  
13 any preliminary matters.

14           Does the staff have any preliminary  
15 matters?

16           MR. BASTIDA: Yes, Mr. Chairman, the staff  
17 has three preliminary matters.

18           The first preliminary matter, the  
19 applicant is willing to stand on the record and answer  
20 questions of the Commission if the Commission so  
21 chooses.

22           Do you want to rule on each preliminary  
23 matter as I --

24           CHAIRPERSON HOOD: No, let's just go  
25 through all three of them.

1 MR. BASTIDA: Okay.

2 The other preliminary matter is that the  
3 presidential building has requested the party status  
4 and they were granted, previously, party status on the  
5 original PUD application.

6 And, the other preliminary matter -- and  
7 they are also willing to stand on their submission and  
8 just answer questions -- they ANC also is willing to  
9 stand on the record and just answer questions of the  
10 Commission if the Commission has any.

11 Thank you. That concludes the preliminary  
12 matters.

13 CHAIRPERSON HOOD: Thank you, Mr. Bastida.

14 Colleagues, what I'd like to do is take  
15 the last two preliminary matters, which was party  
16 status, I think, from presidential -- what was the  
17 name of it, Mr. Bastida?

18 MR. BASTIDA: Presidential building.

19 CHAIRPERSON HOOD: Presidential building,  
20 and what was the last one?

21 MR. BASTIDA: Well, the other was just that  
22 I am just sharing with you what the ANC has expressed.  
23 The ANC is automatically party to these proceedings.

24 CHAIRPERSON HOOD: Right.

25 MR. BASTIDA: And, I don't believe I see

1 anybody from the ANC here.

2 CHAIRPERSON HOOD: Okay.

3 I would like to take up the last one  
4 dealing with the presidential association, as opposed  
5 to the ANC, because they are automatically a party,  
6 and we'll deal with these standing on the record as we  
7 move into the hearing.

8 Let me just ask, colleagues, the  
9 presidential association, and I guess I shouldn't be  
10 that lazy, I should pull out my paperwork and see  
11 exactly what it says, but anyway, they were a party, I  
12 believe, throughout this case, through the regular  
13 case, and also they are asking to be a party in this  
14 modification. Are there any objections?

15 No objections? So, they will be noted as  
16 a party.

17 Next, Mr. Bastida, you mentioned the ANC.  
18 The ANC is automatically a party, I don't think  
19 that's an issue that we have to take up.

20 MR. BASTIDA: Right.

21 CHAIRPERSON HOOD: If we have any  
22 questions, we'll ask when we get to that point in  
23 time.

24 MR. BASTIDA: No, I just wanted to notify  
25 to you that they might not be here, and secondly, that

1 they would stand on their previous correspondence, and  
2 if they are in the hearing they will be open to any  
3 questions that the Commissioners might have.

4 CHAIRPERSON HOOD: Thank you.

5 So, let it reflect that the ANC is  
6 automatically a party, and the Presidential Owners,  
7 Incorporated, will also be a party to this case.

8 Colleagues, this is pretty  
9 straightforward. This case is, I believe, has been  
10 laid out, this modification piece is pretty  
11 straightforward. Unless we need to hear a  
12 presentation, five or ten minutes from the applicant,  
13 I would prefer that we stand on the record. The  
14 materials are, I believe, sufficient.

15 If that's the case, then what we will do  
16 is ask the applicant to prepare themselves to give us  
17 -- to be prepared to answer any questions, or would  
18 you all like to hear the case? Colleagues, what is  
19 your pleasure?

20 COMMISSIONER PARSONS: Just ask questions.

21 CHAIRPERSON HOOD: Just ask questions.  
22 Okay, that's what we'll do.

23 Mr. Nettler, do you have your group ready  
24 just in case we have any questions?

25 MR. NETTLER: Good evening, members of the

1 Zoning Commission, Mr. Hood.

2 Yes, we are -- this is Porter Dawson on  
3 behalf of the applicant, and George Dove, the  
4 Architect, stand ready to answer any questions that  
5 the members of the Commission may have.

6 CHAIRPERSON HOOD: Okay, good evening.

7 I hope they are ready to be drilled.

8 MR. NETTLER: They are ready to be drilled.

9 CHAIRPERSON HOOD: Colleagues, any  
10 questions for the applicant?

11 Mr. May?

12 COMMISSIONER MAY: I just had one basic  
13 question. If I understand, I think what the change  
14 is, but I'm a little confused by the sets of drawings  
15 that we have here, the set of drawings that are under  
16 Tab 5, is that the original approved PUD?

17 CHAIRPERSON HOOD: Let me interrupt before  
18 we do this.

19 Ms. Sanchez, could you swear in the  
20 witnesses, please? Thank you.

21 All those who are going to testify, would  
22 you please stand, or possibly may testify, if you can  
23 stand and take the oath. Thank you.

24 (Whereupon, the witnesses were sworn.)

25 CHAIRPERSON HOOD: Okay, Mr. May, I'm

1 sorry.

2 MR. NETTLER: The answer is yes.

3 COMMISSIONER MAY: So, that was the  
4 original approved PUD.

5 And then, we have another set of drawings  
6 that are at Tab 2, I want to say, and what's the  
7 principal difference between those two exhibits? It  
8 looks like it's not until we get to Tab 3 that we  
9 actually show a revised elevation with the changes  
10 actually drawn, is that right?

11 MR. NETTLER: That's correct.

12 COMMISSIONER MAY: Okay.

13 So, Tab 2 is just -- is, essentially, the  
14 same as the approved PUD, but as drawn by the current  
15 architect as opposed to the original architect?

16 MR. NETTLER: That's correct.

17 COMMISSIONER MAY: Okay.

18 I didn't look at them very carefully, and  
19 the copies that we got it's difficult to really sort  
20 of do them side by side, but I trust that there's no  
21 significant alteration between what we see on Tab 5  
22 then and what we see on Tab 2, and that the only real  
23 change is between Tab 3 and the rest, right?

24 MR. DOVE: That is correct.

25 Tab 2 is primarily a comparison, just to

1 show that we have not deviated from the original  
2 setbacks, heights, et cetera. That's what it is there  
3 for.

4 COMMISSIONER MAY: Okay.

5 CHAIRPERSON HOOD: Please turn on your  
6 microphone.

7 MR. DOVE: I'm sorry, I thought I had.

8 CHAIRPERSON HOOD: Could you repeat your  
9 answer, I don't know if we picked that up.

10 MR. DOVE: Tab 2 is primarily there to  
11 generate a comparison of the current versus the  
12 original, and to show that there is no deviation in  
13 terms of any massing height, setbacks, et cetera.

14 COMMISSIONER MAY: Okay, but the design is  
15 slightly different.

16 MR. DOVE: It has been developed further  
17 from the concept drawing which was approved, but it's  
18 substantially the same.

19 COMMISSIONER MAY: Okay.

20 Okay, I think that's it for me.

21 CHAIRPERSON HOOD: Mr. Parsons?

22 COMMISSIONER PARSONS: I'm equally  
23 confused. I see in Tab 3 an elevation of K Street  
24 that shows an entrance to a parking garage, I believe,  
25 that is the door is rolled down, and that's Drawing A,

1 08A.

2 MR. DOVE: Yes, I didn't go into the detail  
3 of the specific deviations that we asked for. Should  
4 I do that?

5 COMMISSIONER PARSONS: No, not for me.

6 MR. DOVE: Okay.

7 COMMISSIONER PARSONS: So, what I'm looking  
8 for, and I can't seem to find in the whole book, is a  
9 plan view showing that entrance to the garage. I find  
10 plenty showing the 16<sup>th</sup> Street entrance to the garage,  
11 but this was the only evidence that I --

12 MR. DOVE: I do have it on a larger scale  
13 board, which I'd be more than happy to show you.

14 COMMISSIONER PARSONS: Oh, okay, that would  
15 be fine.

16 I think most of the drawings in here that  
17 I could find still show a 16<sup>th</sup> Street access.

18 Tab 4, ah, yes, you are showing us the  
19 drawing at Tab 4. Thank you, Mr. Cochran.

20 MR. DOVE: This clearly shows that the  
21 drive has been relocated to this location, which is  
22 the western portion on K Street, and substituting it  
23 is a landscaped area in front of where the old drive  
24 used to go into the building.

25 COMMISSIONER PARSONS: Now, as I understand

1 it, you want the option of coming in off the alley, as  
2 a garage entrance.

3 MR. DOVE: That is a technical option, yes.

4 COMMISSIONER PARSONS: Technical option.

5 MR. DOVE: I remember how much we debated  
6 that that was impossible the last time around.

7 COMMISSIONER PARSONS: Of course, you  
8 weren't building a new building then, but --

9 MR. NETTLER: The Office of Planning has  
10 asked us to consider doing that, so we have asked for  
11 the option if it's feasible to do it to have that  
12 leverage to do.

13 COMMISSIONER PARSONS: I see.

14 MR. NETTLER: But, at this point, we are  
15 dealing with it off of K Street.

16 COMMISSIONER PARSONS: So, if you're going  
17 to pick that option does that mean you've got to come  
18 back here?

19 MR. NETTLER: No. No, the way the --

20 COMMISSIONER PARSONS: You want the  
21 flexibility in the order to allow you to do that?

22 MR. NETTLER: That's correct.

23 COMMISSIONER PARSONS: Okay.

24 MR. NETTLER: If we are able to find that  
25 it is feasible, we'd like to move it back there and

1 have no entrance off of -- have no garage on either of  
2 the facades.

3 COMMISSIONER PARSONS: And, presumably,  
4 replace that with retail?

5 MR. NETTLER: It would go back to the way  
6 it was under the original drawings.

7 COMMISSIONER PARSONS: Okay, all right.  
8 Congratulations on a lot of hard work.  
9 That's all I have.

10 CHAIRPERSON HOOD: That's all you have.  
11 Mr. Hannaham.

12 MR. HANNAHAM: No questions.

13 CHAIRPERSON HOOD: Mr. Nettler, I'm not  
14 sure who can best answer this, I just wanted to know,  
15 I didn't understand, I looked in your submittal, there  
16 was a statement made in the Office of Planning's  
17 report, maybe I should ask them, but I'm going to ask  
18 you, Mr. Nettler, about the parking. The managed  
19 parking site shall be provided in the building. It's  
20 going back to the old order where it says, delete the  
21 use and hours restrictions on the garage to permit use  
22 by non-tenants and eliminate restrictions on the hours  
23 of uncontrolled. And then it says, delete all that,  
24 and all it's saying now on No. 10 of the condition is,  
25 managed parking shall be provided in the building.

1 Maybe I'm missing something, but that just left me  
2 hanging, so I don't understand what are we  
3 accomplishing here, managed parking shall be provided  
4 in the building?

5 MR. NETTLER: Let me see, I'm not sure if  
6 that was the same condition.

7 MR. DAWSON: Chairman, the earlier  
8 restrictions arose from the closeness of that garage  
9 entrance to the residential neighborhood. And, once  
10 we moved it around to K Street we didn't think, and  
11 the neighbors concluded, we didn't need that level of  
12 restriction on the upper east of the garage.

13 CHAIRPERSON HOOD: Okay. I would just let  
14 you know, I'm glad to see that, because that was one  
15 of the reasons I voted against -- I voted against this  
16 project all the way, for the many times that I've had  
17 a chance to vote against it. So, that was one of my  
18 major concerns.

19 But anyway, thank you.

20 Colleagues, any other questions?

21 Okay. We have two parties, ANC-2B, do you  
22 want to cross examine? Is there anyone here, first of  
23 all, from ANC-2B, representing ANC-2B?

24 UNIDENTIFIED SPEAKER: No.

25 CHAIRPERSON HOOD: No.

1                   Okay, there will be an opportunity as I go  
2 down the agenda.

3                   Anyone here from the Presidential Owners,  
4 Incorporated that wants to cross examine?

5                   UNIDENTIFIED SPEAKER: No, need to cross  
6 examine.

7                   CHAIRPERSON HOOD: No need to cross  
8 examine. Okay, thank you.

9                   Now, we'll do the report of the Office of  
10 Planning.

11                   COMMISSIONER PARSONS: I'm sorry, Mr.  
12 Chairman, I have one more question.

13                   CHAIRPERSON HOOD: Okay, I'm sorry, we have  
14 one more question.

15                   COMMISSIONER PARSONS: Is this a potential  
16 federal office building, a lease for a federal office  
17 building, or is this going to be targeted to the  
18 private marketplace, or don't we know yet?

19                   MR. DAWSON: So far, it's targeted to the  
20 private sector only. We've had, I believe, no  
21 discussion with the government, and it would be our  
22 expectation that it would not end up being a  
23 government building. It's hard to be certain about  
24 anything these days, but it's certainly targeted to  
25 the private sector.

1 COMMISSIONER PARSONS: That sounds very  
2 good to me, because some federal tenants, of course,  
3 don't want retail on the ground floor, and this is  
4 absolutely the wrong place to shut that off.

5 Thank you.

6 CHAIRPERSON HOOD: Okay, thank you, Mr.  
7 Parsons.

8 Moving right along with our agenda, we  
9 have a report of the Office of Planning. Again,  
10 colleagues, I think the Office of Planning report has  
11 been pretty straightforward. I'm not trying to save  
12 time, but I would ask that we move in the same format  
13 in which we did with the applicant, if that's okay  
14 with my colleagues, that we can just ask the Office of  
15 Planning questions if we have any, unless you wanted  
16 to add something, Mr. Cochran.

17 MR. COCHRAN: No, Mr. Chair.

18 CHAIRPERSON HOOD: If that's the case,  
19 we'll stand on the record, and we'll ask the Office of  
20 Planning any questions.

21 COMMISSIONER PARSONS: Mr. Cochran, I'm  
22 glad, apparently, you suggested this concept of the  
23 alley entrance to the parking garage. Maybe I  
24 shouldn't pin it on you, but since you are the Office  
25 of Planning, how feasible do you think that is? I

1 don't mean that you've done a feasibility study, but  
2 we had so much testimony last time that it wasn't  
3 going to work, do you think that testimony was based  
4 on the fact that they were trying to use the existing  
5 building?

6 MR. COCHRAN: I think it's possible. I  
7 don't know that it's actually the best entrance.

8 The situation changes a bit, too, with the  
9 reconstruction of K Street that has been unveiled, the  
10 design for it since then. The use of K Street, if it  
11 goes into a 323 situation, with the three lanes of  
12 traffic -- excuse me, a lane of parking, two lanes of  
13 traffic, two lanes of busway, and then two lanes of  
14 traffic and a lane of parking, it's a different  
15 situation, the possibility for jam ups by a parking  
16 garage entrance on K Street are significantly less,  
17 which is why DDOT's filing indicated that they would  
18 approve this now, whereas, formerly, they had not been  
19 favorably inclined to a parking entrance on K Street.

20 COMMISSIONER PARSONS: Because of the  
21 frontage road problem?

22 MR. COCHRAN: Exactly. You know how it  
23 just jams, it goes to a halt.

24 I don't think that OP has a -- with this  
25 particular building, we don't have an opinion on which

1 would be preferred. We don't have an official  
2 opinion.

3 Of course, we note that the whole point of  
4 service alleys is to accommodate this kind of use, but  
5 I just haven't been able to examine what the options  
6 would be to have a recommendation one way or another.

7 We just didn't want to preclude the applicant doing  
8 that.

9 COMMISSIONER PARSONS: Okay. Thank you.

10 CHAIRPERSON HOOD: Any other questions of  
11 the Office of Planning?

12 Okay, thank you.

13 Report of other government agencies? I do  
14 know that we have something from the District  
15 Department of Transportation. I think that's about --  
16 that's all I saw.

17 Mr. Bastida, do we have anything else?

18 MR. BASTIDA: No, Mr. Chairman.

19 CHAIRPERSON HOOD: I'm a little rusty, I  
20 haven't done this in a while.

21 Any cross examination of the Office of  
22 Planning by the applicant?

23 The ANC, ANC-2B?

24 And, the Presidential Owners?

25 Okay, thank you.

1                   Now, back to the report of other agencies.  
2           Department of the District's Transportation --  
3   District Department of Transportation, that's the only  
4   thing that I have. Anything else that I missed, may  
5   have missed?

6                   MR. BASTIDA: No, Mr. Chairman, that's the  
7   only other report you have from a government agency,  
8   and that's part of the record.

9                   CHAIRPERSON HOOD: Okay.

10                   Let me just ask --

11                   MR. BASTIDA: And, there is nobody from the  
12   Department of Transportation present.

13                   CHAIRPERSON HOOD: Okay, thank you, Mr.  
14   Bastida.

15                   Let me just ask Mr. Nettler, have you seen  
16   the correspondence from Mr. Ken Laden?

17                   MR. NETTLER: Yes, I have.

18                   CHAIRPERSON HOOD: Okay, thank you.

19                   Next, the report of the Advisory  
20   Neighborhood Commission 2B, again, we're calling for  
21   that, going once, twice, gone.

22                   Parties and persons -- well, if need be,  
23   parties and persons in support. I know that we have a  
24   party here, which is the Presidential Owners. They've  
25   requested -- they are in support, but I don't

1 necessarily know if they want to speak. So, let me  
2 just move away from them, unless they want to speak.  
3 If not, we'll move on to persons in support. Okay.

4           Persons in opposition? We have no parties  
5 in opposition, but persons in opposition. If there's  
6 anyone here that is in opposition of this project,  
7 this modification, now is your time to come forward to  
8 the table.

9           Mr. Nettler, I ask you and the applicant  
10 if you all could step back and let -- I believe it's --  
11 -- and, forgive me if I mispronounce your name, but I'm  
12 going to try it, Mr. Moradi. I got that right, come  
13 on up to the table.

14           Could you turn your microphone on and  
15 could you identify yourself, please?

16           MR. MORADI: Yes, my name is Nik Moradi.  
17 I'm the owner of a clothing store right next to the  
18 property in question, and forgive me if I'm not  
19 properly addressing you, I don't know whether this is  
20 the correct forum for me or not, but I just -- four or  
21 five days ago I heard there was a hearing and my  
22 concern for the past two or three years has been that  
23 since I had a meeting with Mr. Porter Dawson, one of  
24 the JBG partners, about my concern closing the  
25 sidewalk, which I was told by Mr. Dawson that they

1 would close the sidewalk, it would completely shut me  
2 out of business and my livelihood.

3 And, I tried to somehow plead with him to  
4 have some sort of an opening with an overpass so it  
5 would not be hurting my livelihood. He suggested that  
6 if I pay for such construction, putting 2 x 4s or  
7 corridor of some sort, he may consider it.

8 And, it would just -- if you allow this to  
9 go through and close the sidewalk, I will be  
10 completely shut down, and I don't think that's fair  
11 for this building to be built at my expense.

12 CHAIRPERSON HOOD: Mr. Moradi, first of  
13 all, let me get my orientation together. Where is  
14 your business?

15 MR. MORADI: I'm right next to the building  
16 in question.

17 CHAIRPERSON HOOD: Do we have something we  
18 can put up? Okay, thank you.

19 Make sure you talk in one of the  
20 microphones.

21 MR. MORADI: Sure, I will.

22 In front of K Street.

23 COMMISSIONER PARSONS: And, your  
24 understanding is the sidewalk along K Street will be  
25 closed?

1 MR. MORADI: That's what I was told by Mr.  
2 Dawson. I did send registered letters to Public Works  
3 and Planning about eight months ago. I finally met  
4 Mr. Chisholm in my store about two weeks ago. He  
5 assured me that he would do whatever he could, because  
6 there is a lot of traffic in the morning where people  
7 get off the bus and use that corridor, and he would do  
8 his best to make sure there is some sort of an  
9 overpass where the pedestrians can have easy access  
10 coming and going.

11 And, that was the end of it, and he  
12 suggested that I should come to this meeting as well.

13 CHAIRPERSON HOOD: Mr. Moradi, you just  
14 found out about this hearing, you say, in the past  
15 four or five days?

16 MR. MORADI: Actually, no, about -- it's  
17 five days ago, where the manager of the building that  
18 I have my store, since I've been in communication with  
19 him, he told me he had received such notice and he  
20 copied one and his handwriting is there for need a  
21 professional man, and he handed it to me.

22 CHAIRPERSON HOOD: Okay.

23 So, I guess you just found out about this  
24 modification here, but you knew that there was  
25 something that was taking place all along.

1 MR. MORADI: I had an idea, but every time  
2 I would call Ms. Denise Turner or anyone for the  
3 Planning and Permits, et cetera, they would tell me  
4 there is no such application yet. We don't know -- we  
5 have no idea what's going on, and they kept saying, as  
6 soon as we have something we'll let you know. And,  
7 that was the extent of it for the past three years.

8 CHAIRPERSON HOOD: So, your main issue is  
9 that that sidewalk, that access --

10 MR. MORADI: That's the only issue, yes.

11 CHAIRPERSON HOOD: -- that's the only  
12 issue you have.

13 MR. MORADI: Yes. I have been -- I have  
14 been putting up with derelicts, and sleepers, and  
15 homeless people, and all kinds of very bad things on K  
16 Street next to my store, because the whole building  
17 has been vacant, but this is just completely going to  
18 shut me down, and I just don't think that's fair, to  
19 be honest with you.

20 CHAIRPERSON HOOD: Okay.

21 Okay, we've heard you.

22 Colleagues? Mr. Parsons?

23 COMMISSIONER PARSONS: I'm not sure I  
24 understand yet. I guess -- they are not going to  
25 close the sidewalk in front of your store, it's the

1 sidewalk to the east that you are worried about.

2 MR. MORADI: Yes.

3 COMMISSIONER PARSONS: Towards 16<sup>th</sup> Street,  
4 which will theoretically shut off all the traffic, the  
5 pedestrian traffic.

6 MR. MORADI: Theoretically, I might as well  
7 be dead, because no one is going to cross by my store,  
8 walk by it, unless they are coming specifically for  
9 me. And, if they are coming from the east, they have  
10 to go across the street, go all the way past my store,  
11 cross 17<sup>th</sup> Street, and then come back to me.

12 I don't think you would do that.

13 COMMISSIONER PARSONS: So, they've talked  
14 to you about building one of the passageways under --

15 MR. MORADI: They haven't, Mr. Dawson told  
16 me if such -- if they ever entertain such idea to put  
17 some sort of an overpass, I would have to pay for that  
18 construction, and he had a figure of \$15,000. I was  
19 with a friend who was an attorney with me at that  
20 time, who is now in Poland, by the way. So, I have  
21 all the records for that as well.

22 COMMISSIONER PARSONS: You mean he left the  
23 country or he's touring?

24 MR. MORADI: Well, he got a job in a law  
25 office in Poland.

1 COMMISSIONER PARSONS: I see, okay.

2 CHAIRPERSON HOOD: Any other questions?

3 Mr. Hannaham?

4 COMMISSIONER HANNAHAM: I'm puzzled, I  
5 really don't understand exactly how you have a  
6 problem.

7 You are in the adjacent, the building next  
8 to the one that we are considering.

9 MR. MORADI: That's correct.

10 COMMISSIONER HANNAHAM: And yet, is it just  
11 during the phase -- the construction phase that you  
12 have a problem?

13 MR. MORADI: Well, if -- I have no problem,  
14 I'll be happy to put up with the dust, dirt, sound,  
15 everything else, as long as they do not close the  
16 traffic that goes by my store from the traffic light  
17 into the middle of the block where I am.

18 COMMISSIONER HANNAHAM: Are you speaking  
19 during the construction phase?

20 MR. MORADI: During the construction, yes.

21 COMMISSIONER HANNAHAM: This is your  
22 problem, during construction.

23 MR. MORADI: That's my biggest problem.

24 COMMISSIONER HANNAHAM: Okay, now I  
25 understand your problem.

1 MR. MORADI: That's the only problem. I  
2 hope they do start sooner so they can finish sooner,  
3 I'll be happy for it. It will be great for everyone,  
4 including me.

5 But, if I could last as long as they are  
6 going to do the construction, closing the sidewalk,  
7 it's impossible. And, I was told it would be 18 to 24  
8 months duration.

9 And, I spoke with my landlord, there's  
10 nothing they can do. I'm locked in my lease as well.

11 COMMISSIONER HANNAHAM: Okay, I understand  
12 your problem.

13 MR. MORADI: Thank you.

14 COMMISSIONER HANNAHAM: I don't know what  
15 you can do, I don't know what a solution might be,  
16 though.

17 MR. MORADI: The solution is simple, just  
18 like they do in New York City and all the other  
19 cities, they make sure there is some sort of an  
20 overpass where pedestrians are protected and they can  
21 walk under while they are doing the construction work.

22 I'd be happy to put up with that.

23 COMMISSIONER HANNAHAM: Are you sure that  
24 that won't be done during the construction?

25 MR. MORADI: I was told by Mr. Dawson, who

1 is one of the partners, and you are recording me, I'll  
2 go on the record, this is what I was told. And, that  
3 is, at his option, if --

4 COMMISSIONER HANNAHAM: Okay, I understand  
5 the problem, Mr. Chairman.

6 CHAIRPERSON HOOD: Well, maybe I don't.

7 Mr. Moradi, I understand -- the issue is,  
8 this is going to be temporary while construction is in  
9 the process, it's not going to be a permanent problem.

10 MR. MORADI: No, sir, if you call 18 to 24  
11 months temporary. For me, it just might as well be  
12 permanent.

13 CHAIRPERSON HOOD: I understand that.

14 Unfortunately, you know, you can't foresee  
15 these things. When I read this, I just thought  
16 everything was going to be smooth sailing, but what I  
17 plan on doing is hearing your testimony. I'm going to  
18 bring the applicant back up, because I want to ask  
19 some questions, and so do my colleagues, because  
20 nobody in this city wants to put any person out of  
21 business.

22 MR. MORADI: I appreciate that, sir.

23 CHAIRPERSON HOOD: And, I would hope that  
24 the applicant is hearing this, and I hope that they've  
25 come up with a remedy by the time they come back to

1 the table.

2 MR. MORADI: I hope so. I hope and pray,  
3 and I thank you very much, sir.

4 CHAIRPERSON HOOD: Okay.

5 Any other questions, colleagues? Okay.

6 Mr. Moradi, thank you very much for your  
7 testimony.

8 MR. MORADI: Thank you.

9 CHAIRPERSON HOOD: Anyone else in  
10 opposition? Any other person in opposition?

11 I would ask Mr. Nettler and the applicant  
12 to come back to the table, Mr. Dawson, and Mr. Dove.

13 Did you have any slight rebuttal?

14 MR. DAWSON: I did meet with Mr. Moradi, I  
15 would guess now, I don't know, 18 or 24 months ago, I  
16 would say, it was a long time ago, and we discussed  
17 this, we discussed his problem, and I said to him that  
18 at the time, and I still don't know what the District  
19 will require by way of a sidewalk closing, that's, I  
20 believe, done by the Division of Permits. I don't  
21 think that's a landlord -- at the landlord's election.

22 Sometimes they close sidewalks in front of the  
23 building, sometimes they don't. This is a pretty big  
24 building, and my guess is that they are going to  
25 resist that.

1           Mr. Moradi implied that he wanted -- he  
2 would really try to stop us, and I recommended to him  
3 to try to take a more positive approach. I said to  
4 him that we had done this in other cases where we had  
5 worked with people to give them signage, to make  
6 signage more visible. He remained very concerned,  
7 which I understand as well, that if the sidewalk is  
8 closed it's going to reduce traffic next to his store.

9           But, I don't know, in reality, I mean I  
10 promised him that we would work, he asked if we would  
11 lease his store for the duration, which I couldn't do,  
12 and I said we would give him signage, we would do  
13 whatever we could to help maintain the visibility of  
14 his store, enhance the visibility of his store.

15           MR. NETTLER: The issue, if I might, as to  
16 whether there's going to be an ability to put a  
17 passageway underneath any construction that goes on in  
18 the building is one that's ultimately resolved by  
19 DDOT, it's not something that's done at the election  
20 of JBG in constructing the building. They can request  
21 it of DDOT to allow that to happen, but it's up to  
22 DDOT as to whether that will happen or not.

23           MR. DAWSON: Chairman Hood, could I also  
24 say, certainly any time you have construction like  
25 this it's an interruption on the street. I mean, we

1 know that. K Street has a particular characteristics  
2 which we've experienced with other buildings, where  
3 people typically walk, even though the sidewalk is  
4 closed, there's a service lane there, typically people  
5 walk in that service lane, or the median there. So, I  
6 don't think -- it isn't going to terminate traffic on  
7 that end of the street.

8 I don't mean to be minimizing the concern  
9 this gentleman has, I understand that, but this is not  
10 a narrow street with one sidewalk. There is a service  
11 lane there that's -- and a median, that people would  
12 typically use on K Street when the sidewalk is closed.

13 CHAIRPERSON HOOD: You know, I understand,  
14 and I understand you've had some dialogue with Mr.  
15 Moradi, but his concern is of great interest to me.  
16 Unfortunately, I didn't find out about it until just  
17 now, I don't know about anybody else. I don't think  
18 we picked up on it.

19 But, I really think, I don't know if you  
20 could do more, I believe you can, but I don't know if  
21 it's in our jurisdiction for me to mandate that, but  
22 we also have to look out for -- I look out for,  
23 personally look out for, the small business person,  
24 because like he just said, 18 months, while I think of  
25 it as temporary, it's a lifetime to him. And, I would

1 hope that JBG, who is big business, would do all they  
2 can do, and what they can do to help him whatever, if  
3 you all could come to some type of agreement where  
4 that would still help his business.

5 Now, I don't have any answers, nor do I  
6 have any recommendations, but I believe that there's a  
7 way that this could be done where everybody can co-  
8 exist and get along for that 18 months, or whatever  
9 the time period will be, and it won't put him out of  
10 business. I really think that that can be done.

11 I don't think he's asking for too much.  
12 See, now you are shaking your head Mr. Nettler.

13 MR. NETTLER: No, I agree, I think that JBG  
14 is willing to work with them in trying to arrange for  
15 that, and it's something they have to work with the  
16 city in doing, to make sure that happens.

17 CHAIRPERSON HOOD: Any other comments?

18 COMMISSIONER HANNAHAM: I take it from  
19 what you just said that you've had discussions with  
20 the city with respect to this particular matter then.

21 MR. NETTLER: Not with respect to this  
22 particular matter, in terms of --

23 COMMISSIONER HANNAHAM: Oh, you haven't, in  
24 your discussions with the city this has never come up?

25 MR. NETTLER: It hasn't come up, because

1 there has already been a permit that was issued for  
2 the construction under the previous PUD, the  
3 conditions upon which that was given aren't changed by  
4 these modifications. It's still -- it's the fact of  
5 construction going on that provides an impediment to  
6 that passageway, and I think once, and hopefully this  
7 modification is approved, then JBG can work with the  
8 Department, with DDOT and DPW to finalize whatever is  
9 going to be done on that street to ensure that there's  
10 access continuously along that street.

11 COMMISSIONER HANNAHAM: Even if it's a  
12 matter of using the street, I know that's sort --

13 MR. NETTLER: Right.

14 COMMISSIONER HANNAHAM: -- of like a  
15 little street off the main part of K Street.

16 MR. NETTLER: Exactly.

17 COMMISSIONER HANNAHAM: It's like a --

18 MR. NETTLER: Which has been done  
19 throughout K Street, if you go from development up  
20 from 11<sup>th</sup> up to 22<sup>nd</sup> over the last few years have all  
21 done that, they've all had -- have had the pedestrians  
22 walk into that side portion of the street around the  
23 construction that's been going on, and they've  
24 directed pedestrians around that way to the retail  
25 shops, and I think that's probably what -- whether

1 it's DPW or DDOT, but it will allow for a continuous  
2 flow of traffic, rather than cutting it off at that  
3 site.

4 COMMISSIONER HANNAHAM: Okay. If that can  
5 be the outcome, I think that might be the way to  
6 resolve it.

7 MR. NETTLER: That should solve his  
8 problem, that's right.

9 COMMISSIONER HANNAHAM: I'm still puzzled  
10 as to what we might be able to do here, other than  
11 make it a part of the record showing our concern.

12 Is there anything that we can do, Mr.  
13 Chairman, beyond just --

14 CHAIRPERSON HOOD: What I was going to  
15 request, I'm going to ask Mr. Nettler and the  
16 applicant to get back to us in writing and that we  
17 give them until the 15<sup>th</sup> of October, 12:00 noon, 15<sup>th</sup> of  
18 October, back to us in writing your response, even  
19 though you've said a few things verbally, but your  
20 response, and I would also just ask that you have that  
21 to this office by 12:00 noon on the 15<sup>th</sup> so we can deal  
22 with it at our next monthly meeting, which will be the  
23 28<sup>th</sup>, I believe.

24 MR. MORADI: I am requesting a special  
25 meeting on the 17<sup>th</sup> so we can handle it at that time.

1 Also, if I may, Mr. Chairman, I would be in touch with  
2 DC DOT to see -- from staff to staff, to see what is  
3 possible to do, but I guess that the applicant has the  
4 burden to, in fact, work with DC DOT until Tuesday  
5 noon, and provide that answer to the Commission for  
6 the record, and then the Commission can make a  
7 decision on the 17<sup>th</sup> of October.

8 CHAIRPERSON HOOD: Okay.

9 So, Mr. Nettler, you understand, we're  
10 asking for your response in this office by the 15<sup>th</sup> of  
11 October at 12:00 noon, and we'll be making our  
12 decision on the 17<sup>th</sup> of October at 6:00, I believe.

13 MR. MORADI: Yeah, there will be a special  
14 meeting at 6:00.

15 CHAIRPERSON HOOD: Okay.

16 MR. DAWSON: Is there anything we could  
17 tell you tonight that would help you reach a decision  
18 more quickly?

19 CHAIRPERSON HOOD: Unfortunately, I would  
20 rather have a response in writing. I know you  
21 verbally have said some things, but the 17<sup>th</sup> is only a  
22 week or so, a week and a half or so away, we just  
23 would rather have something written for the record.

24 Personally, I would -- do you have  
25 something you can offer?

1 MR. DAWSON: Well, I was just going to say,  
2 some of this is out of our hands. I mean, there's  
3 just a public safety issue with this. If a covered  
4 side -- if we can do a covered sidewalk and the city  
5 deems that that's sufficient to protect the public, we  
6 can put in a public sidewalk. I mean, I think the  
7 city dictates whether we do that or not. We can do  
8 that.

9 We can do -- there are some things we can  
10 do, and we're happy to do that, which I indicated to  
11 Mr. Moradi when we met. I mean, we will work with him  
12 on signage. In the past, we could put signage up on  
13 our part of the structure once it's up and there's  
14 something to put a sign on, but when it's blocked, I  
15 mean, there are several things -- well, I don't know  
16 if there are several, that's one thing I can think of  
17 that we can do.

18 I don't know, I'm worried about coming  
19 back to you without some sense of what you also think  
20 is practical.

21 MR. MORADI: Mr. Chairman, if I may --

22 CHAIRPERSON HOOD: Let me let him finish,  
23 hold on one second.

24 MR. MORADI: Sure.

25 CHAIRPERSON HOOD: Let me let him finish.

1 Finish your point.

2 MR. DAWSON: Well, the two things I can  
3 think of that would ameliorate the effect on his store  
4 would be to facilitate traffic, foot traffic, on that  
5 street with a covered walkway, and we can do that if  
6 the city determines that that's sufficiently safe.  
7 Often, in a building this size, they don't like to  
8 have people walking next to the building. And, as you  
9 know, the building comes right up to the sidewalk in  
10 these urban areas.

11 What we have done in the past, as I've  
12 said, is to do a large banner kind of sign that is a  
13 more prominent -- that is more prominent signage,  
14 which someone walking down the median or in the  
15 service lane would certainly be able to see.

16 CHAIRPERSON HOOD: You know, I'm listening  
17 to your discussion, actually, the more we get into it  
18 the more I'm starting to have another problem, because  
19 we knew this -- unfortunately, I didn't know this was  
20 an issue. When I looked at this material here tonight  
21 I thought everything was fine, everybody, you know,  
22 had worked together on it, and you've actually taken  
23 care of my concern why I voted against it.

24 But, obviously, you and Mr. Moradi have  
25 been speaking, and maybe if you had come tonight ready

1 to address that we wouldn't be where we are now, but  
2 we are addressing it now, and, obviously, you knew  
3 that this was -- you knew this was an issue, we didn't  
4 know it.

5 So now, we are going to have to deal with  
6 it accordingly, and, again, I'm going to stick with  
7 what I asked for, a response by the 15<sup>th</sup>.

8 Mr. Bastida, did you want to add  
9 something?

10 MR. BASTIDA: I think that the applicant is  
11 concerned about time and schedule. If they can't  
12 resolve it by the 15<sup>th</sup>, I think that we could still  
13 stick to the timetable to look for a final approval  
14 some time in the November meeting, but it's up to them  
15 to, in fact, provide that information so the  
16 Commission will have the comfort level to approve the  
17 project on the special meeting on the 17<sup>th</sup>.

18 CHAIRPERSON HOOD: Okay.

19 Mr. Parsons?

20 COMMISSIONER PARSONS: Maybe you could  
21 assure us, Mr. Moradi somehow got the impression that  
22 if this was to be done he was going to have to pay for  
23 it himself, obviously, a misunderstanding I guess,  
24 because you are not suggesting that if you go get the  
25 permission to build a walkway that he will pay for it.

1 MR. DAWSON: No, we would pay for that.

2 COMMISSIONER PARSONS: Okay.

3 MR. COCHRAN: Mr. Chair?

4 CHAIRPERSON HOOD: Mr. Cochran?

5 MR. COCHRAN: I wondered if I might suggest  
6 some language, at least that the Commission might want  
7 to consider, just as part of -- because this is the  
8 kind of question that would arise with any number of  
9 PUDs that you have considered and approved, even along  
10 K Street recently, it's a more far-reaching issue.

11 This applicant just happens to have  
12 someone next door who has actually brought this  
13 question up. But, you might include a condition that  
14 says, during construction the applicant shall provide  
15 signage for adjacent buildings on K Street to the  
16 extent permitted by law. If permitted by District  
17 agencies, the applicant shall pay for a covered  
18 walkway adjacent to the construction fencing on K  
19 Street. And, if that were acceptable, that would  
20 allow you to move on tonight and still address the  
21 concerns of the gentleman.

22 MR. BASTIDA: Mr. Chairman, staff have a  
23 concern with that language, that's public space, and  
24 this Commission has no jurisdiction over the public  
25 space. So, I would be concerned about the legality of

1 the Commission --

2 MR. COCHRAN: Mr. Bastida, that's why I  
3 included the language that says to the extent  
4 permitted by law.

5 CHAIRPERSON HOOD: Okay, here's what I'm  
6 going to do. Obviously, this has definitely caught  
7 all of us off guard. I'm going to ask, I'm going to  
8 stick with what I asked for at first, October the 15<sup>th</sup>,  
9 a response in to this office. We will be dealing with  
10 it, according to staff, on October 17<sup>th</sup>.

11 Is that all right, colleagues?

12 MR. BASTIDA: That is correct, Mr.  
13 Chairman.

14 MR. NETTLER: Can I make --

15 CHAIRPERSON HOOD: Do we have a general  
16 consensus, colleagues, Commissioners? Okay.

17 MR. NETTLER: -- could I make another  
18 request?

19 CHAIRPERSON HOOD: Sure.

20 MR. NETTLER: It's not to change that.

21 CHAIRPERSON HOOD: I was hoping that wasn't  
22 the request.

23 MR. NETTLER: No, no. It has to do with  
24 what happens after that.

25 Assuming, hopefully, that what we provide

1 you with is satisfactory and the decision is positive,  
2 we worked with the staff, the National Capital  
3 Planning Commission, the Office of Planning, and with  
4 others, and with the corporation counsel, in trying to  
5 expedite a final decision on the matter, and we've  
6 been informed by the staff of the National Capital  
7 Planning Commission that if you take action, whether  
8 it was tonight or whether it's next week, at the next  
9 meeting that you've indicated, that their staff is  
10 ready to send you back a memorandum prior to or on  
11 November 7<sup>th</sup> indicating that it has no objection to the  
12 application, which would then allow you, hopefully, to  
13 take action on this, final action on this, after  
14 November 7<sup>th</sup>, and I believe your next public hearing  
15 date is November 14<sup>th</sup>. If you could give us some  
16 indication that you would be in a position to do that,  
17 if all of these things follow through, it would be  
18 extremely crucial to us because of financing issues  
19 that we've been trying to address.

20 But, it's all predicated on us meeting  
21 your concerns next week, and we would just like to try  
22 and gear up for that possibility. As I said, we have  
23 provided the staff, corporation counsel, and others,  
24 with a draft order that has all of the conditions that  
25 we've spoken about. We can modify that to include

1 ones that will address this issue as well, but we are  
2 concerned about trying to get -- about getting too far  
3 afield after November 7<sup>th</sup>.

4 MR. BASTIDA: Mr. Chairman, may I just  
5 remind two things, the meeting on November is on the  
6 18<sup>th</sup>? The staff had assured you that the timetable for  
7 the November meeting will take place provided that the  
8 Commission votes -- gives a preliminary vote on the  
9 17<sup>th</sup>. So, I don't see a problem if the Commission  
10 votes on the affirmative on the 17<sup>th</sup>, to comply to that  
11 timetable and have it on the Commission's agenda on  
12 the 18<sup>th</sup> of November.

13 MR. NETTLER: All right, thank you.

14 CHAIRPERSON HOOD: I just don't -- the only  
15 thing I don't like about your statement, Mr. Bastida,  
16 is if the Commission votes in the affirmative, I don't  
17 know what this Commission may do, to be frank and  
18 honest, so don't take that from what he said like it's  
19 a foregone conclusion, because it's not.

20 Okay, so with that everything is in order,  
21 ladies and gentlemen, other members of the Commission,  
22 I wish to thank you for your testimony and assistance  
23 in this hearing.

24 The record in this case is closed, except  
25 for information or reports specifically requested by

1 the Commission, which must be filed as indicated by  
2 the Secretary in Suite 210 of the building, 441 4<sup>th</sup>  
3 Street, N.W.. Please note that all filings are to  
4 take place no later than 12:00 p.m.

5 Any party to this case may file -- well,  
6 no -- such responses will be filed no later than seven  
7 days, which we've already set the date which is  
8 October the 15<sup>th</sup> at 12:00 noon.

9 The Commission will make a decision in the  
10 case at one of its regular monthly meetings following  
11 the closing of the record. The meetings are held at  
12 1:30 p.m., on the second Monday of each month, with  
13 some exceptions, and are open to the public. If any  
14 individual is interested in following this case  
15 further, please contact staff to determine whether  
16 this case is on the agenda of a particular meeting.

17 And, Mr. Nettler, you know the specifics  
18 that we have said how we are going to move this  
19 particular case. So, with that, I thank everyone for  
20 their cooperation and attendance at this hearing.  
21 This hearing is now adjourned.

22 (Whereupon, the above-entitled matter was  
23 concluded at 7:15 p.m.)

24