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

**Application of HAI Real Estate Holdings, LLC
For Special Exceptions to Waive the Rear Yard Setback
And Parking Requirements For An Addition to
An Office Building At 1820-22 Jefferson Place, N.W.**

March 8, 2010

I. Nature of Relief Sought

This is an application by HAI for special exceptions pursuant to §§ 3104, 774.2 and 2120.6 of the Zoning Regulations to waive the rear yard setback and parking requirements for an addition to an office building at 1820-22 Jefferson Place, N.W. (Square 139, Lot 75, the "Property"). The Property is zoned DC/C-3-C. "DC" indicates the Dupont Circle overlay zone. This overlay zone has no affect on this application. C-3-C is a medium-high density commercial zone that allows a wide range of office, retail, hotel and residential uses up to a maximum building height of 90 feet and 6.5 FAR as a matter of right. The property is within the "Golden Triangle" sector of Downtown Washington and within the boundaries of Advisory Neighborhood Commission ("ANC") 2B, single member district 2B-06.

II. Jurisdiction of the Board of Zoning Adjustment

The Board has jurisdiction to grant the relief requested pursuant to § 3104 of the Zoning Regulations.

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III. Description of the Subject Property and Vicinity

The Property is located on the south frontage of Jefferson Place, N.W. between Connecticut Avenue to the east and 19th Street to the west. The existing improvements consist of two inter-connected three-story rowhouses constructed in the late 1800s and having approximately 8,244 square feet of gross floor area (“g.f.a.”). The building also has a slightly depressed basement level that is entered from the front sidewalk. The Property is a contributing building in the Dupont Circle Historic District. A 10-foot-wide alley serves the property at the rear, providing direct access to 19th Street, and converging with two other alleys that connect to M Street and Jefferson Place.

The subject frontage of Jefferson Place in this block is lined with an ensemble of historic buildings, primarily townhouse structures used for office space. Two doors down from the Property, at 1828-1834 Jefferson Place, a six-story addition was added to the rear of those four rowhouses. The M Street frontage includes numerous restaurants at the lower levels of buildings. At the corner of 18th and M is a high-rise office building of modern vintage.

The predominant development pattern on the northern frontage of Jefferson Place is 90-foot-high office buildings of modern construction (1960s to 1980s) as allowed by right in the C-3-C District. Such high-rise office buildings occupy the corners of Jefferson Place and 19th Street (1225 19th Street, N.W.), 19th and N Streets (1818 N Street, N.W.) and M Street and Connecticut Avenue (1250 Connecticut Avenue, N.W.). The latter building extends down most of the frontage of Connecticut Avenue except for a narrow three-story retail building at the corner with Jefferson Place.

The immediately surrounding city blocks are developed primarily at medium-high density and predominantly with office buildings together with occasional hotel or

apartment buildings and some scattered groupings of historic buildings at lower scale. This location is within the Central Employment Area and generally in the transitional area between high-density commercial development in the Golden Triangle and the Dupont Circle residential neighborhood.

IV. The Proposed Addition

The Applicant has designed a seven-story addition at the rear of the existing building at 1820-22 Jefferson Place, N.W. The addition will be 61 feet high as measured from the front curb and 65 feet as measured from the rear alley. The addition is set back the full depth of the existing buildings which is 39 feet from the front facades. The height of the rowhouses is approximately 41 feet and the addition would rise 26 feet above the roofs. The addition will add 17,929 square feet of gross floor area to the existing building which comprises (portion to remain) 8,244 gross floor area for a total of approximately 20,830 g.f.a. On the subject lot of 4,240 square feet, the project will constitute a 4.91 FAR, which is well within the 6.5 FAR allowed in the C-3-C District.

The addition will be constructed behind, not over, the historic building. The existing building, as a contributing building in a historic district, will be preserved and restored in the interior as well as the exterior. Only a very minor amount of demolition of noncontributing building fabric is required at the rear to connect the addition to the existing building. Although a proposed addition of up to 90 feet could have been proposed for review by the Historic Preservation Review Board (as was done successfully for the office building behind preserved townhouse fronts at the corner of 19th and N in this block), the Applicant and historic preservation staff preferred a rear addition that would be lower in height and not visible from the street. Thus, the addition is only seven stories high. The addition is 61 feet tall as measured from the front curb

(65 feet as measured from the rear alley). The Historic Preservation Review Board has granted conceptual approval to the addition.

Retaining the full existing structure and setting the addition back far enough to ensure that it is not visible from Jefferson Place, however, does have the effect of forcing the addition to the rear of the lot, necessitating the requested waiver of the rear yard setback.

V. Special Exception – Waiver of Rear Yard Setback.

As indicated in the Applicant's Self-Certification form, the Applicant is requesting a special exception from the rear yard requirement.

Pursuant to 11 DCMR § 774.1, the rear yard requirement for buildings in a C-3-C District is 2 ½ inches per foot of building height and not less than 12 feet. The proposed height is 65 feet at the middle of the rear of the building. As provided in § 774.9(a), the rear yard may be measured from the center line of the alley (the alley is 10 feet wide in this case), and the rear yard setback need not be provided below a horizontal plane twenty feet (20') above the mean finished grade at the middle of the rear wall of the building. Therefore, the rear yard requirement for the addition is the 12 foot minimum requirement (65 feet x 2.5 inches = 13.5 feet minus 5 feet (from centerline of alley) = 8.5 feet.) Since, Section 774.1 requires a minimum of 12 feet, accordingly, the requested deviation is from the required setback of 12 feet above the 20-foot horizontal plane.

Subsection 774.2 authorizes the Board to waive the rear yard requirement in the C-3-C zone as a special exception, provided that the standards in §§ 774.3 through 774.6 are met. These standards are stated below, followed by comments regarding compliance.

774.3 Apartment and office windows shall be separated from other buildings that contain facing windows a distance sufficient to provide light and air to protect the privacy of building occupants

774.4 In determining distances between windows in buildings facing each other, the angle of sight lines and the distance of penetration of sight lines into habitable rooms shall be sufficient to provide adequate light and privacy to the rooms.

Across the alley, to the south of the rear of the Property, is a three-four story office building at 1819 M Street, N.W. The rear wall of the subject proposed addition faces the rear wall of 1819 M Street, N.W. 1819 M Street has an unfinished addition which is also built out to its rear property line. However, it is in non-residential use and the top floors of the building are set back from the property line and are windowless. The addition has been in an unfinished state for over 6 months with no construction activity . It is possibly the subject of a stop work order . 1821 M Street , N.W. is also located directly across the alley from the subject property . It is a two story commercial building occupied by a liquor store. It is also built out to the property line in the rear but there are no windows on the property line , only a garage door. Thus, there is ample separation between the windows of the proposed addition and the rear of the adjacent buildings which front on M Street without compromising light or privacy to any of the buildings.

It should be noted that a building height of 90 feet is allowed as a matter of right in the subject C-3-C District, whereas the proposed building is only 65 feet in height at the alley. Thus, the effects on the light and privacy of the office building to the south are substantially less than might be expected of a matter-of-right building. Finally, the requested waiver is only for a distance of 12 feet, so that the difference between the building with no rear setback and a setback of 12 feet above the 20-foot elevation is quite minor given all of the circumstances. There are no apartment windows in this location, only office buildings typically used primarily in daytime hours.

774.5 The building plan shall include provisions for adequate off-street service functions, including parking and loading areas and access points.

The addition will accommodate three parking spaces accessed from the rear alley and located on the first floor level of the building. No loading facility is required. Normally nine spaces would be required (1 space per 1800 square feet of office use after excluding the first 2,000 square feet). However, historic buildings may obtain a waiver from any required parking requested as discussed in more detail below.

VI. Parking Waiver

The proposed addition will provide a net increase of 14,720 feet of gross floor area. According to §2120.3 and §2101.2 a total of 9 parking spaces is required for the new addition. The redeveloped building; however, will provide only three 8 foot by 16 square foot size¹ parking spaces. Providing additional parking is not feasible given the small size of the lot, the need to preserve the existing historic structure, and the difficulty and inordinate expense of excavating underneath the existing improvements. As a result, the Applicant is requesting a waiver of the aforementioned parking requirement pursuant to §2120.6 of the Zoning Regulations. The standard and criteria for a §2120.6 special exception and the Applicant's response to each is provided below as follows:

2120.6. The Board of Zoning Adjustment may grant relief from all or part of the parking requirements of this section if the owner of the property demonstrates that, as a result of the nature or location of the historic resource, providing the required parking will result in significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource. The Board shall grant only the

¹ Section 2120.5 provides that parking spaces for historic buildings can be compact size 8 feet by 16 feet.

amount of relief needed to alleviate the difficulty proved. The applicant shall also demonstrate compliance with the general special exception standard set forth in § 3104 and shall address each of the following criteria as part of its presentation to the Board:

- (a) Maximum number of students, employees, guests, customers, or clients who can reasonably be expected to use the proposed building or structure at one time;
- (b) Amount of traffic congestion existing and/or that the redevelopment of the historic resource can reasonably be expected to add to the neighborhood;
- (c) The addition of 17,929 net square feet of office space in this CBD area is not significant or likely to significantly impact the area.
- (d) Quantity of existing public, commercial, or private parking, other than curb parking, on the property or in the neighborhood that can reasonably be expected to be available when the redevelopment is complete;
- (e) The subject location in a high-density office precinct provides numerous underground parking garages that are available;
- (f) Proximity to public transportation, particularly Metrorail stations, and availability of either public transportation service in the area, or a ride sharing program approved by the District of Columbia Department of Transportation; and

- (g) The Dupont Circle Metrorail station is only two blocks from the property and numerous Metrobus routes are nearby.

2120.7 Prior to taking final action on an application, the Board shall refer the application to the D.C. Department of Transportation for review and report.

No adverse parking or traffic effect is expected because, again, the location is within a high-density office precinct designed to accommodate higher density and higher activity levels than are proposed in this project. Parking garages and lots are available nearby, including one under the office building at 19th Street and Jefferson Place.

VII. Compliance with Subsection 3401.1

Subsection 3401.1, which authorizes the Board to grant special exceptions, requires that the Board find that the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Map and will not tend to adversely affect the use of neighboring property.

The proposed use in this Application is which is allowed as a matter of right in the C-3-C District. The proposed density, at 4.91 FAR, and the proposed height at 61 feet, is well below the density and height allowed as a matter of right in this zone district. Thus, in general terms the use will not obstruct views or create a level of traffic or other activity that might adversely affect neighboring properties.

The proposed design of the addition and the preservation of the existing building have met with the conceptual approval of the Historic Preservation staff as being in keeping with the Dupont Circle Historic District and immediate environs.

The analysis of the specific special exception criteria shows that the requested waiver of a 12-foot rear setback above a plane 20 feet above grade and the parking

requirement for the addition will not adversely affect the occupants or use of neighboring buildings.

VIII. Conclusion

The Applicant submits that approval of the requested special exceptions will be in harmony with the intent and purpose of the Zoning Regulations and Map and will not adversely affect the use of neighboring property. The Applicant further believes that the proposed addition complies with the special exception criteria set forth in §§ 774.3 – 774.5 and § 2120.6 as documented previously in this statement and in the attached plans. Accordingly, the Applicant requests approval of this application.

Respectfully submitted,

ARNOLD & PORTER LLP

Cynthia A. Giordano

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Attachments