

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

**Application of Corcoran Gallery of Art
1700 New York Avenue, N.W.**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

I. Background

The subject property consists of Lot 34 in Square 171 (the "Site"). Square 171 is bounded by New York Avenue to the north, 18th Street to the west, E Street to the south, and 17th Street to the east. The Site is located in the eastern half of the square and is zoned SP-2. The Site is improved with the Corcoran Gallery of Art, an historic landmark (the "Corcoran").

The Applicant, the Corcoran Gallery of Art, intends to allow the construction of an office building as an addition to the museum in the open space on the north portion of the Site. The addition will have a maximum height of 90 feet and include 114,695.5 square feet of gross floor area devoted to office use. The architectural design of the addition will complement the existing historic resource and has received concept approval from the Commission of Fine Arts.

In order to proceed with the proposed development, the Applicant is seeking the following four areas of relief: (1) a special exception to allow office use in the SP District pursuant to Section 508 of the Zoning Regulations; (2) a variance from Section 531.1 of the Zoning Regulations to increase the permitted FAR by 1,431.5 square feet of gross floor area (or 0.02 FAR); (3) a variance to reduce the parking required by Section 2101.1 of the Zoning Regulations; and (4) a special exception for the roof structure to allow walls of unequal height pursuant to Section 411 of the Zoning Regulations.

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its Statement of the Applicant with the Board no fewer than fourteen days prior to the public hearing for the present application. In this statement, and at the public hearing, the Applicant will provide testimony to meet its burden of proof to obtain the Board's approval of the requested variance and special exception relief. Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

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II. Burden of Proof - Special Exceptions

A. Special Exception for Office Use in SP District

Section 508.1 provides that construction of a new office building or construction of an addition to a building for office use shall be permitted in an SP District if approved by the Board of Zoning Adjustment. The following should be taken into consideration:

§ 508.3 *The use, height, bulk and design shall be in harmony with existing uses and structures on neighboring property.*

The proposed office addition will have a maximum height of 90 feet, which is consistent with the height of the adjacent United Unions Building and other nearby office buildings. The design of the structure is a primarily glass building, with several angled setbacks and reveals that defer to the massing of the Corcoran. This design has received concept approval from the Commission of Fine Arts. The intent of the design is to maintain the character and prominence of the Corcoran. The use is appropriate in this location between the museum space and the office and federal buildings to the north and northeast as well as the United Unions office building immediately to the west. Accordingly, the use, height, bulk and design will be in harmony with the existing uses and structures on neighboring properties.

§ 508.4 *The use shall not create dangerous or other objectionable traffic conditions.*

The Applicant has retained Gorove Slade as its traffic consultant to provide a full analysis of the impact of the proposed project on traffic conditions.

§ 508.5 *The Board may require special treatment in the way of design, screening of building, accessory uses, signs, and other facilities as it deems necessary to protect the value of neighboring properties.*

The Board may choose to provide any special treatment necessary to protect the value of the neighboring properties, which include many office buildings.

Finally, 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 affect adversely the use of neighboring properties. The project provides for the sensitive expansion of an important historic resource for office use in an appropriate location. Accordingly, the project will not adversely affect adjacent or nearby property and will serve to benefit this redeveloping area.

B. Special Exception for Roof Structure

Due to shape of the Site and the desire to minimize the mass and visibility of the roof structure, the project does not fully comply with the roof structure requirements set forth in Section 411 of the Zoning Regulations. Specifically, Section 411.5 of the Zoning Regulations provides that enclosing walls from roof level shall be of equal height. Because the proposed project does not comply with this provision, the Applicant requests special exception relief to deviate from the strict compliance of the Zoning Regulations as permitted under Sections 411.11 and 3104.1 of the Zoning Regulations.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. Under Section 411.11, the Board may grant special exception relief from the strict requirements for a roof structure requirement where full compliance is "impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area" and would be "unduly restrictive, prohibitively costly, or unreasonable." 11 DCMR §411.11. The Board may approve deviations from the roof structure requirements provided the intent and purpose of Chapter 400 and the Zoning Regulations are not "materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely." 11 DCMR § 411.11.

The Applicant requests relief from Section 411.5 in order to create a roof structure that is as small as possible in order to bring down the overall height of the building and provide for better views to the historic resource from a distance. In order to achieve this goal, the penthouse roof is set as low as possible while still enclosing the necessary mechanical equipment. However, because the elevator and fire stairs serving the roof require more height, they must be enclosed in a slightly taller structure. The taller volumes enclosing the stair and elevator were sloped and shaped in a way to mesh with the overall design of the building and to not appear as default rectangular boxes on the roof. Thus, all of the roof structures are reduced to the maximum extent possible, in keeping with the desires of the Commission of Fine arts and resulting in a superior design for the addition to the historic landmark.

The creation of a roof structure that is as low and small as possible preserves the light and air of other buildings and has no adverse impacts. Accordingly, the proposed penthouse is in harmony with the purpose and intent of the Zoning Regulations and meets the test for special exception relief under Section 411.11.

III. Burden of Proof - Variances

The test for variance relief is three-part: (1) demonstration that a particular piece of property is confronted with some exceptional condition or situation; (2) such that, without the requested variance relief, the strict application of the Zoning Regulations would result in some practical difficulty upon the property owner; and (3) that the relief requested can be granted without substantial detriment to the public good or zone plan.

(A) Exceptional Condition or Situation:

The Site is an irregularly-shaped lot and improved with an irregularly shaped, historic building. The new construction adjacent to this historic building which occupies approximately 70% of the Site has significant complexities, including portions of the foundation of the Corcoran being gravel. In addition, a GSA steam tunnel along New York Avenue creates further complications for excavation of the Site results in the relief requested.

(B) Resulting Practical Difficulty:

The Applicant will demonstrate that the strict interpretation of the Zoning Regulations will result in a practical difficulty upon the Applicant.

1. Section 531

Section 531.1 of the Zoning Regulations limits development on the Site to 3.5 FAR. The Corcoran currently occupies 70% of the Site and comprises 125,545 square feet of gross floor area 1.8 FAR, while the addition will incorporate 114,695.5 square feet of gross floor area. In order to construct adjacent to the historic building, the addition must provide certain shafts and fire stairs to serve the Corcoran. These facilities are included in the FAR calculation and will likely comprise more than 1,000 square feet of gross floor area. In addition, the adjacent United Unions building encroaches into the Site for 55.2 square feet, which results in a loss of 431.5 square feet of gross floor area to the Applicant. Furthermore, because the museum occupies 70% of the Site, the core factors are significantly affected. A typical office building on a more regularly shaped lot would have a core factor of approximately 10% to 14%. Due to the shape and size of the Site as well as the constraints placed on parking ingress and egress discussed below, the proposed building will have a core factor of approximately 20%, which equates to a loss of approximately 6,800 square feet of gross floor area compared to a building without these exceptional situations. Given these practical difficulties resulting from the shape, size and condition of the Site, the Applicant requests a variance of 0.02 FAR (or 1,431.5 square feet) in order to offset

against these losses while providing an appropriately massed building for the Site.

2. Section 2101.1

Strict adherence to the Zoning Regulations would require that the building provide 83 total parking spaces, which includes 63 spaces for the office addition (1 for each 1,800 square feet after the first 2,00 square feet) plus the 20 zoning spaces that are currently provided for the Corcoran and will be removed by the proposed construction. The project proposes a total of 44 parking spaces that comply with the Zoning Regulations as well as an additional 38 parking spaces to be provided in vault space and/or in tandem configurations. The requested variance results from the small size of the parking garage due to the limited area available for excavation based on the proximity to the Corcoran, the inability to excavate deeper given the Corcoran's gravel foundation, the potential issues relating to excavation adjacent to the GSA steam tunnel, and the configuration of the garage resulting from the necessity for two separate ramps in the garage.

(C) No Harm to Public Good or Zone Plan:

The requested relief can be granted without harm to the public good and without threat to the integrity of the zone plan. The addition to the Corcoran has been sensitively designed and the increased FAR will not adversely impact the design and mass of the building adjacent to the Corcoran. In addition, the parking to be provided will be sufficient to serve the new building as well as replacing the lost parking used by the Corcoran.

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