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Outline of Testimony before the Board of Zoning Adjustment

BZA Application No. 18344

33 New York Avenue, N.E.

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May 8, 2012

I. Site location and description

A. Location

1. South side of New York Avenue between North Capitol and 1st Streets, N.E.
2. Site extends through to N Street on the south
3. Project site consists of Lot 27 in Square 671
4. Site located in the NoMA area

B. Size

1. Site area is approximately 10,280 square feet
2. Site is trapezoidal in shape
3. Frontage of approximately 122.67 feet on New York Avenue and 112 feet on N Street
4. Bounded by private property on the east and west sides

C. Existing site condition: improved with a vacant two story commercial building formerly used as a nightclub with adjacent surface parking

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BOARD OF ZONING ADJUSTMENT
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II. Description of surrounding area (see aerial photo, attached)

A. NoMA/North Capitol/Union Station area

B. Remainder of the Square:

1. To the west: Covenant House (3 stories)
2. To the east:
 - a) Mixed commercial structures (1, 2 and 3 stories), including parking garage and car wash
 - b) Surface parking lot
 - c) Fast food restaurant
 - d) Office building (3 stories) at the northwest corner of the intersection of 1st and N Streets)

C. To the north:

1. New York Avenue (130 feet wide)
2. Surface parking areas
3. Office building at 64 New York Avenue
4. Fast food restaurant

D. To the east:

1. Offices of U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives in the block bounded by 1st, 2nd and N Streets and New York and Florida Avenues
2. Courtyard by Marriott Hotel in the block bounded by 2nd Street and Florida Avenue and the railroad tracks
3. Rail yards and lines north of Union Station

E. To the south:

1. Office buildings and surface parking in the block bounded by M, N 1st and North Capitol Streets

2. Constitution Square mixed use development, including offices, apartments, hotel and grocery store
3. Other high rise office buildings and apartment houses in the blocks to the south

F. To the west:

1. High rise apartment houses on the west side of North Capitol Street between New York Avenue and M Street
2. Row houses further to the west along New York Avenue and N Streets

III. Existing zoning: C-3-C

A. Uses (§§741 – 744)

1. Commercial use permitted as a matter-of-right, including retail, service and office use
2. Hotel and inn
3. Residential use permitted as a carry-over from the Special Purpose and Residential Districts

B. Height - maximum of ninety feet (§770.1)

C. Density - maximum of 6.5 FAR (§771.2)

D. Rear yard:

1. Minimum of 2½ inches per foot of height, not less than twelve feet (§774.1)
2. On a through lot, may measure the rear yard from the centerline of the street at the rear yard

E. Side yard - not required (§775.5)

F. Parking (§2101.1):

1. For office use: minimum of one space for each 1,800 square feet of gross floor area in excess of 2,000 square feet

2. For retail use: minimum of one space for each 750 square feet of gross floor area in excess of 3,000 square feet
 3. For hotel use: 1 for each 4 rooms usable for sleeping plus 1 for each 300 square feet of floor area in either the largest function room or the largest exhibit space, whichever is greater
- G. Loading (§2201.1): for hotel with 30 to 200 rooms usable for sleeping, one loading berth @ 30 feet wide and one service/delivery loading space
- H. Downtown Development Receiving Zone
1. With use of transferable development rights (TDRs), height is maximum permitted under the Act of 1910 (130 feet for subject site)
 2. With use of TDRs, maximum FAR is 10.0
- IV. Proposed development
- A. Use: hotel (proposed to be a Hyatt Place Hotel) with 200 rooms
 - B. Height: 130 feet
 - C. Floor area ratio: 9.99
 - D. Parking: none proposed
- V. Relief required
- A. Variance from the parking requirements for the number of spaces (§2101.1):
 1. Minimum required: 54 spaces (50 for the rooms and 4 for the function room)
 2. Proposed: 0 spaces
 3. Variance: 54 spaces (100%)
 - A. Special exception for roof structures (§411)
 1. Setback
 - a) Required: 1:1 (18 feet, 6 inches) from exterior walls
 - b) Proposed: 10 feet, 5 inches down to 0 setback from the wall of the court which faces the N Street side of the building

- c) Relief required: 8 feet, 6 inches, 8 feet, 1 inch and 10 feet in various places

2. Walls of unequal height

- a) Required: enclosing walls must be of equal height
- b) Proposed: portions of roof structure will be 11.5, 13 and 18.5 feet above the roof
- c) Relief required: unequal height

II. Standards for a variance (§3103.2)

- A. Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,
- B. the strict application of any regulation adopted under D.C. Code §§5-413 to 4-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship;
- C. Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

III. Compliance with the variance standards

- A. Exceptional situation:
 - 1. Size, width and shape of the lot, particularly as they effect the ability to meet the parking requirements
 - 2. DDOT's determination to oppose access to required parking from New York Avenue and to not allow parking in vaults
 - 3. Because of location of required loading berth (also precluded from location on the New York Avenue frontage), parking ramp would have to be located on the east side of the site

B. Practical difficulty:

1. Impact of parking ramp (if provided) on first floor configuration
2. Size and shape of site effectively precludes development of parking below grade in a reasonable configuration
3. Width of ramps and aisles, with proper grades and turning movements, would require 7 levels of spaces below grade, at an average cost of approximately \$188,000 per space, as compared to a normal cost of \$35,000 to \$50,000 per space

C. No substantial detriment:

1. High transit accessibility (rail and bus), as well as bike parking and access to car sharing spaces, will create a very low demand for parking
2. Hotel will provide valet parking to use off-site spaces in lots and garages in the neighborhood

VI. Standards for the roof structure special exception (§411.11)

- A. Where impractical because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area
- B. that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable
- C. the Board of Zoning Adjustment shall be empowered to approve the location, design, number and all other aspects of such [roof] structure ...
- D. Provided that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.
- E. Decrease in setback shall have no adverse effect upon present character or future development of neighborhood

VII. Compliance with the special exception standards for roof structure setback

- A. Hotel use dictates size and location of building above the first floor
- B. Lobby and core functions are most appropriately located in the center of the site

- C. Court provided above the pool deck provides required light and air for the south facing rooms
- D. Location of the roof structure on top of the building is a direct result of the building design and program below
- E. Roof structure only fails to meet the 1:1 setback requirement on the south side facing the court
- F. Requirement to setback additional distances would disrupt the room layout on typical floors and would be unduly restrictive and unreasonable
- G. South facing wall of roof structure is set back at a minimum over 20 feet from the property line on N Street
- H. No setbacks are required on the west and east sides; no setback is provided on the east side but a 1:1 setback is provided on the west side
- I. Meets the setback requirements on the New York Avenue frontage
- J. Will be no impact on light and air to adjoining buildings
- K. Only a portion of the roof structure rises to the full height of 18 feet, 6 inches
- L. Having portions at only 11.5 feet and 13 feet reduces the mass on the roof
- M. Roof structure has been integrated into the overall design of the building

VIII. Conclusions

- A. Size and shape of the property create an exceptional condition in terms of meeting the parking requirements
- B. In order to provide 54 conforming parking spaces, 7 levels of underground parking would be required
- C. Costs and construction difficulties for that amount of excavation would be unduly burdensome to the owner
- D. Application meets specific criteria of §411.11
- E. Roof structure setback conforms to the Regulations except on the side facing the center court
- F. No other building will be affected by the reduction in the required setback

- G. Varying heights actually reduces the mass on the roof
- H. Roof structure setback relief and walls of unequal height can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map
- I. Application should be approved

