

Via Electronic Mail to the Addressees Below

June 19, 2012

Addressees:

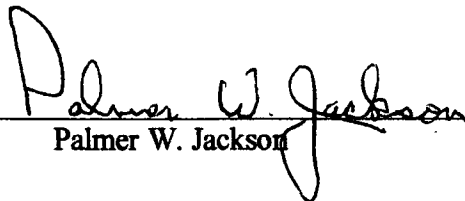
Richard S. Nero, Jr. Office of Zoning
BZASubmissions@dc.gov
Harriet Tregoning, DC Office of Planning
Steve Callcott, DC Historic Preservation Office
Roland F. Dreist, Jr. DC Surveyor
Martin Parker, DDOT
Felicia Banks, DDOT

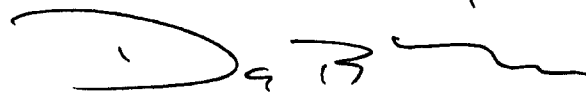
RE: Opposition to JBG Companies Florida Avenue 8th & 9th Street NW Project, As
Rendered – BZA Application #s18375 and 18397, H.P.A. # 12-159 and
SO #11-08780

On behalf of the 9th Street Business and Property Owners in the 1900 block of
Square 393, we wish to submit herein our opposition to the approval of Florida Avenue
Residential LLC's (JBG Companies) Board of Zoning Adjustment (BZA) Application
Numbers 18375 and 183397, Historic Preservation Review Board (HPRB) Submittal
H.P.A. Number 12-159 and Department of Consumer and Regulatory Affairs' Office of
the Surveyor Application Number 11-08780. On May 31, 2012, we appeared before the
Historic Preservation Review Board and expressed, in one response, our concerns with
JBG's submission materials provided to all applicable DC Agencies. On that date, the
HPRB voted not to grant final approval of HPA #12-159, as rendered.

Attached hereto is our PDF document detailing our opposition to the proposed
actions under review by your respective agencies. We do plan to attend both BZA Public
Hearings scheduled for July 10, 2012 for the East site and September 18, 2012 for the
West site, the next HPRB meeting and the DC City Council meeting when scheduled.
We look forward to working with you, the JBG Companies, and the ANC-1B.

Sincerely,


Palmer W. Jackson


David B. Lindeman

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18375

EXHIBIT NO. 29

Board of Zoning Adjustment
District of Columbia
CASE NO.18375
EXHIBIT NO.29

2012 Jun 21 AM 8:39
R. H. Nero

For these reasons, we the undersigned owners of property in the 1900 block of 9th Street NW in Square 393 ask your assistance in gaining amenable relief. If you have any questions about this matter, please contact Palmer W. Jackson at 202-701-5307 or David B. Lindeman at 202-439-6563. We are:

B. Horvath 1913 9th St. N.W.

B. Horvath 1911 9th St. N.W.

Palmer W. Jackson, Trustee 1901 9th St. N.W.

~~B. Horvath~~ 1903 - 9th St NW

D. G. R. 1923 9th St Limited Partnership

Smart-Alice 1919, 9th Street, NW DC

Meggin Johnson 1909 9th St NW DC

Tamara Cemonfes 1917 9th St. NW DC

Martha Cemonfes 1915 9th St. NW

W. C. ^{William & Michelle Lewis} 1905 9th St, NW

Stanley H. Gebemichal 1907 - 9th St NW

Subject: BZA Application #18375 – East Site

Through Resolution 16-0209, on June 21, 2005, the DC City Council approved the DUKE Framework for a Cultural Destination for Greater Shaw U Street (the DUKE Plan). The DUKE Plan envisioned that the “Howard Theatre and the Lincoln Theatre would serve as bookends to the many cultural heritage assets of the Project Area” and the cultural landmarks would be “pearls on a string” of supporting mixed use development. One of the designated sub-areas for redevelopment, within the Project Boundaries, is the “9th Street Sub-District” and the location of the proposed Florida Avenue at 9th and 8th, NW project in Squares 416 and 393.

On March 13, 2012, JBG representative, Holland and Knight LLC filed a single Board of Zoning Adjustment (BZA) Application #18375 for special exceptions and variances for Square 416, Lot 31/ East site. However, the submission, in the Background section of its application addressed both Squares 416 and 393/West site. On April 16, 2012, we, the 9th Street Property Owners in Square 393 provided to the ANC 1-B Design Committee and JBG our analysis of the mixed use development plan for both the West and East sites. On April 24, 2012, Holland and Knight LLC filed a second BZA Application #18397 for Square 393, Lots 41, 44, 45, 46 and 826. This served to divide the sites and establish independent hearing dates, with the first being, July 10, 2012 for the East site and September 18, 2012 for the West site.

Subsequent to filing our May 14, 2012 opposition statement for BZA Application 18375, we presented testimony at the May 31, 2012 Historic Preservation Review Board (HPRB) hearing in opposition to both BZA Applications 18375 and 18397. (See Attachment) The HPRB voted “NOT” to approve the revised design/new construction drawings. The passing of the Board’s second motion instructs JBG to continue working with the Historic Preservation Office staff on further revisions to its design and to return to HPRB for a third review of its altered plans in response to the Board’s May 31, 2012 feedback.

In preparation for the HPRB, BZA and DC City Council hearings, the 9th Street Property Owners in Square 393 reviewed JBG Companies’ BZA Applications against: 1) the DUKE Plan; 2) Zoning Requirements; 3) Historic Preservation Requirements; and 4) District Department of Transportation (DDOT) Requirements; and oppose granting approval to proceed with the development of the East and West sites, as rendered.

We believe JBG has failed to meet its “Burden of Proof” as determined by the BZA’s three-part test for variance relief. The proposed Florida Avenue at 9th and 8th, NW development plan for both the East and West sites represents a “substantial detriment to the public good” and serves to compromise the zoning plan with the lack of sufficient parking and loading facilities to serve the needs of the prospective tenants. These variances if granted to the new buildings will result in negative impacts on the traffic patterns in the surrounding neighborhood. We have continually offered JBG our analysis and recommendations in hopes of stimulating needed corrective changes, but have been repeatedly ignored. JBG wants to maximize the total development of both sites without compromise.

In our May 31, 2012 HPRB testimony, our objections to the requested zoning variances and special exception for the East site (#18375) are stated on pages 1 and 3, which we have summarized below.

The proposed project does not promote or reinforce the historic character and African-American heritage of the area, which is a cornerstone of the DUKE Plan. The DUKE Plan states, "The design should address the need to achieve a 'signature architecture' that adheres to massing and scale to 'fit in'" — the Florida Avenue at 9th and 8th, NW project, as rendered does not do that. The placement of two six story "modernistic wavy glass" structures plus roof box framed areas, with a combined total of 257 apartments and 32,004 sq feet of ground floor commercial space, not only does not fit in, but they will serve to heighten traffic congestion and impede the commercial operations of the Florida Avenue, and 9th and 7th Streets business corridors:

- The East Site on Lot 31 will have 94 apartments and 9,229 square feet of commercial space on the ground floor with 29 underground parking spaces instead of 41 spaces. For residential use, the loading dock area will provide one 20 feet Deep Loading Space and one 200 square foot Platform with the BZA request to eliminate the 55 feet Deep Loading Berth. For retail use, one 30 feet Deep Loading Berth with the BZA request to eliminate a 100 square foot Platform. Both residential and retail occupants are expected to share the Loading Berth and Loading Space.

The proposed building height, composition, materials and massing of the East site is fundamentally incompatible with the character of the surrounding historic structures within the Greater U Street Historic District, and the sheer size of the building would adversely impact the existing character of the neighborhood. The proposed East building will not blend with the traditional architectural styles of the neighborhood; and the design is out of character with the other properties on the Florida Avenue/U Street, 9th and 7th Streets commercial corridors. Adjacent to the East Building at the southern end of the site on 8th Street is a row of existing 2 ½ story historic row houses. As stated in the Historic Preservation Review Board "New Construction in Historic Districts" guidelines, "typically, if a new building is more than one story higher or lower than existing buildings that are all the same height, it will be out of character." We recommend that this building should be no more than 4 ½ stories in height. An example of a structure that would "fit" the neighborhood is shown on page 41 of the DUKE Plan, which is Picture J - 200 Newbury Street in Boston, MA.

The redesign and reduction in the height and density on the East site would serve to negate the need for JBG to request approval by the BZA for most of the zoning reliefs for this site. Several of the zoning reliefs sought would be unnecessary if the number of apartments were significantly reduced.

JBG's BZA application requests an increase lot occupancy for residential, but fails to honor the mixed-income development tenancy consistent with the DUKE Plan. We recommend a minimum 20% affordable housing to be provided on each site. In a recent DC newspaper article, it stated "*Affordable housing is an integral piece to economic development in the District of Columbia. A thriving economy rests on diversity of residents. By investing in affordable housing, the District helps to diversify its economy and helps to ensure that the District is a place where residents across the economic spectrum can live*". A reduction in the number of

residential units and first floor commercial space to the required allowances would not only place JBG in compliance with DC Zoning requirements for Loading Berths, Loading Platforms, Service/Delivery Loading Spaces and Underground Parking, it would also serve to reduce the "massing" and allow the building(s) to fit into the U Street Historic District and comply with the DUKE Plan.

A related concern is the amount of anticipated traffic from 8th Street onto the heavily traveled commercial corridors and the potential "bottlenecks" that may occur attempting to enter and exit the service locations and parking garage. The East Building's proposed two-way traffic Garage Entrance (with an overhead coiling door) is located at the southern end of that building on 8th Street. DDOT's Design and Engineering Manual for Public Space states "all driveways shall be a minimum of 24-feet wide for two-way traffic". As stated in the DDOT's Public Realm Design Manual, "driveways shall be designed to avoid vehicle backing and vehicle waiting within the street;" and "where the driveway provides access to a parking facility, the driveway shall provide a sufficient off-street storage area for vehicles waiting to enter the parking facility". JBG's request for zoning variances with regard to service locations and parking would serve to defeat this purpose.

The closing of the northern section of the public alley in Square 393 will also have a detrimental impact on traffic patterns in the neighborhood. On February 21, 2012, two 9th Street Property Owners filed complaint with the DC Office of the Surveyor opposing closure of the public alley (SO # 11-08780). We remaining 9th Street Property Owners in Square 393 are also on record with the DC Office of Surveyor opposing the proposed closing of the northern and southern sections of the public alley adjacent to Lots 44, 826, 41 and 45.

On April 3, 2012, the 9th Street Property Owners in Square 393 communicated with Council Member Jim Graham and all other members of the DC City Council opposing the proposed closing of that section of the public alley; and in our April 16, 2012 submission to the ANC 1B Design Committee, we recommended the construction of an overhead walkway on Level 2 of the West Building between Lots 44 and 45. The example provided were pictures of an L Street NW overhead walkway connecting the Safeway at 5th and L Streets, NW with the neighboring building on L Street, NW. (A picture of this example is also on page 2-9 of the DDOT Public Realm Design Manual.)

**SQUARE 393 9TH STREET PROPERTY OWNERS' OPPOSITION STATEMENT
BEFORE THE DISTRICT OF COLUMBIA HISTORIC PRESERVATION REVIEW
BOARD ON HPA #12-159 – FLORIDA AVENUE RESIDENTIAL LLC'S (JBG
COMPANIES) – FLORIDA AVENUE AT 9TH AND 8TH NW PROJECT, AS RENDERED**

THURSDAY, MAY 31, 2012

Good Morning, Chairman and members of the Board, I am Dana Jackson, speaking on behalf of the 9th Street Property Owners in Square 393. We have prepared a statement of opposition to the Florida Avenue Residential LLC's (JBG Companies) Florida Avenue at 9th and 8th, NW project, as rendered. Given the time allotted to express opposition at this hearing, and our many grievances, I will only read the bolded text.

On June 21, 2005, the DC City Council approved the DUKE Framework for a Cultural Destination for Greater Shaw U Street (the DUKE Plan) through Resolution 16-0209. The DUKE Plan states that it was envisioned that the "Howard Theatre and the Lincoln Theatre would serve as bookends to the many cultural heritage assets of the Project Area" and the cultural landmarks would be "pearls on a string" of supporting mixed use development. One of the designated sub-areas for redevelopment, within the Project Boundaries, is the "9th Street Sub-District".

We, the 9th Street Property Owners have reviewed JBG Companies' Historic Preservation Review Board (HPRB) Submittal (H.P.A. Number 12-159) against: 1) the DUKE Plan; 2) the Historic Preservation; 3) Zoning; and 4) District Department of Transportation (DDOT) requirements. We oppose granting approval to proceed with the mixed use development project in Squares 393 and 416, as rendered for the following reasons:

The proposed project does not promote or reinforce the historic character and African-American heritage of the area, which is a cornerstone of the DUKE Plan. The DUKE Plan states, the design should address the need to achieve a "signature architecture" that adheres to massing and scale to "fit in"—this project does not do that. The placement of two six story "modernistic wavy glass" structures plus roof box framed areas, and the relocation of an existing historic building (making it a stand-alone structure) do not fit in:

- **The East Site will have 94 apartments and 9,229 square feet of commercial space on the ground floor with 29 underground parking spaces instead of 41 spaces. For residential use, the loading dock area will provide one 20 feet Deep Loading Space and one 200 square foot Platform with the BZA request to eliminate the 55 feet Deep Loading Berth. For retail use, one 30 feet Deep Loading Berth with the BZA request to eliminate a 100 square foot Platform.**
- **The West Site will have 163 apartments and 22,775 square feet of commercial space on the ground floor with 69 underground parking spaces instead of 82 spaces. For residential use, the loading dock area will provide only one 200 square foot Platform with the BZA request to eliminate the 55 feet Deep Loading Berth and the 20 feet Deep Loading Space. For retail use, one 30 feet**

Deep Loading Berth, one 20 feet Deep Loading Space and one 100 square foot Platform with the BZA request to eliminate the second 30 feet Deep Loading Berth and the second 100 square foot Platform. (Both residential and retail occupants are expected to share the Loading Berth and Loading Space. There are similar issues with the East site.)

- **The gravamen issue to our opposition of this Project is the proposed closing, on the West site, of the northern portion of the public alley bisecting Lots 44, 826, 41 and 45 and reconfiguring the alley/garage driveway to exit on 9th Street instead of Florida Avenue.**

The proposed building height, composition, materials and massing are fundamentally incompatible with the character of the surrounding historic structures within the Greater U Street Historic District, and the sheer size of both buildings would adversely impact the existing character of the neighborhood. The West and East Buildings do not blend with the traditional architectural styles of the neighborhood (including the Florida Avenue building across from the East and West Buildings outside the historic district); and the design is out of character with the other properties on the 9th and U Streets commercial corridors. There is also a row of existing 2 ½ story historic row houses adjacent to the southern end of the East Building site on 8th Street and a 2 story historic building adjacent to the West Building along with 2 newly constructed 4 ½ story buildings at the southern end of the West Building site on 8th Street. As stated in the HPRB “New Construction in Historic Districts” guidelines, “typically, if a new building is more than one story higher or lower than existing buildings that are all the same height, it will be out of character.” The DUKE Plan, on page 40, states in addressing the “Built Form” that “Preservation regulations [DC Preservation Law – Title 10, Chapter 26 of the District of Columbia Municipal Regulations] apply to structures within Historic District”. We, therefore, concur with the March 22, 2012 Historic Preservation Review Board’s comments that the “height should be reduced and density decreased”, and we recommend that both buildings should be no more than 4 ½ stories in height.

A rear yard design concern (associated with the building’s massive height and size) is the West Building balconies facing our commercial properties on 9th Street; and its residential courtyard on the second floor. We consider the balconies to be intrusive and ask that they be moved to the front of the building or eliminated, and we question the design of the Level 2 courtyard given the proposed relocation of the 1933-35 9th Street.

Another West Building issue is the relocation of the historic structure at 1933-35 9th Street NW in Square 393 on Lot 826, which, we believe, is an important part of JBG Companies’ development strategy for our area. On March 22, 2012, JBG Companies presented to your Board an incorrect relocation plan for moving the historic structure. At the April 16, 2012 ANC 1B Design Committee meeting, a JBG representative called the graphic a “mistake”. She then displayed a “corrected version” showing the building at 1933-35 9th Street NW standing alone with Lot 42/1923 9th Street now intervening between this structure and 1919 9th Street, NW. Even though the “corrected graphic” shows the building to be moved approximately 30 feet rather than 50 feet to the south, the drawings shown to us for the loading dock and entrance to the underground parking garage did not reflect the loss of approximately 20 feet and its impact on the Ground Floor 30 feet Deep Loading Berth; 20 feet Loading Space; Service Elevator(s) and the 20 feet Trash & Recycling Area. The relocation change presented by JBG Companies serves to invalidate the HPRB Staff Report

and Recommendation prepared for your March 22, 2012 design review:

- **HPRB Staff Report, in response to JBG's submittal (which included the incorrect graphic), states "Relocating an historic building from its original site is not standard preservation practice and is generally discouraged by Federal preservation standards and guidelines. In this particular instance...HPO recommends support for relocation of 1933-35 9th Street, NW...Relocation will...provide a more appropriate contextual setting adjacent to similarly scaled historic buildings...allowing more open space and separation between the existing building and the new construction..."**

JBG Companies' relocation of the historic building as a "stand-alone" is contrary to the intent of HPRB's departure from standard preservation practice. There is no historic benefit and little aesthetic advantage realized by moving this property from its present location. The new location and context is inappropriate for this historic building. For these reasons **we oppose moving the building,** which is currently occupied by 2 small businesses, i.e., Serv-U Liquors and Zula Restaurant and request 1933-35 9th Street NW remain at its present location. We ask that the historic structure be incorporated into the design of the West Building. It was envision in The DUKE Plan that this historic structure would remain in place and adjacent to a new structure without balconies or an intersecting garage/alley entrance. **An example of a structure that would "fit" the neighborhood is shown on page 41 of the DUKE Plan, which is Picture J - 200 Newbury Street in Boston, MA.**

The redesign and reduction in the height and density, of the two JBG properties, would serve to negate the need for JBG to request approval by the BZA for most of the zoning reliefs for both the East and West Buildings. The hearing dates to consider approval of the East site is July 10, 2012 and for the West site, September 18, 2012. **On May 15, 2012, our filing in opposition of JBG's BZA application (Case # 18375) for the East site was accepted by the Office of Zoning. We plan to also file in opposition to the BZA application for the West site.**

Several of the zoning reliefs sought would be unnecessary if the number of apartments, in both buildings, were significantly reduced. JBG's BZA application is requesting an increase lot occupancy regarding residential, but its application does not adequately address our request for mixed-income development that is consistent with the DUKE Plan. **We recommend a minimum 20% affordable housing to be provided on both sites rather than the proposed 8%.** In a recent DC newspaper article, it stated *"Affordable housing is an integral piece to economic development in the District of Columbia. A thriving economy rests on diversity of residents. By investing in affordable housing, the District helps to diversify its economy and helps to ensure that the District is a place where residents across the economic spectrum can live".* **A reduction in the number of residential units and first floor commercial space to the required allowances would allow JBG to be in compliance with DC Zoning requirements for Loading Berths, Loading Platforms, and Service/Delivery Loading Spaces.** Further, this would also **allow the number of underground parking spaces to be reduced for both residential and retail use. Consistent with the DUKE Plan, we believe that the underground parking should be eliminated on both sites.** This would, as has many times been stated, stress the need to concentrate and **maximize new development at or near Metro Stations to increase Metro ridership while reducing the need for personal vehicles.** It is our understanding that The Progression Place project on 7th Street NW is providing 205 residential units and no residential parking.

Another design concern relates to the reconfiguration of the public alley/driveway onto 9th Street NW with the proposed closing of the northern section of the public alley; and its relationship to the underground parking and the loading docks/service locations in the West Building. Two 9th Street Property Owners have filed a February 21, 2012 complaint with the DC Office of the Surveyor opposing closure of the public alley (SO # 11-08780). We remaining 9th Street Property Owners in Square 393 are also on record with the DC Office of Surveyor opposing the proposed closing of the northern and southern sections of the public alley adjacent to Lots 44, 826, 41 and 45.

On April 3, 2012, we wrote to Council Member Jim Graham opposing the proposed closing of that section of the public alley; and **in our April 16, 2012 submission to the ANC 1B Design Committee, we recommended the construction of an overhead walkway on Level 2 of the West Building between Lots 44 and 45.** The example provided were pictures of an L Street NW overhead walkway connecting the Safeway at 5th and L Streets, NW with the neighboring building on L Street, NW. (A picture of this example is also on page 2-9 of the DDOT Public Realm Design Manual.) Keeping the current configuration of the public alley would serve to avoid disrupting the heavily used 9th Street commercial corridor and, in turn, prevent the resulting negative impact on the operation of our commercial businesses in that block. As many of the commercial properties in the 1900 block of 9th Street NW are assessed at more than one million dollars, as owners, we are obligated to remain competitive and not diminish the commercial appeal and functionality of our properties. The closure of the northern end (Florida Avenue) of the alley and the creation of a less than required 24 feet alley entrance for two-way traffic on the 1900 block of 9th Street would serve to defeat this purpose; and serve to compromise the relationship of the remaining portion of the alley to the building sites and surroundings.

A related concern is the amount of anticipated traffic onto a heavily traveled commercial corridor and the potential “bottlenecks” that may occur attempting to enter and exit on 9th Street from the service locations and parking garage. As stated in the DDOT’s Public Realm Design Manual, “driveways shall be designed to avoid vehicle backing and vehicle waiting within the street;” and “where the driveway provides access to a parking facility, the driveway shall provide a sufficient off-street storage area for vehicles waiting to enter the parking facility”. JBG’s request for zoning variances with regard to service locations would serve to defeat this purpose.

The East Building’s proposed two-way traffic Garage Entrance (with an overhead coiling door) is located at the southern end of that building on 8th Street, and the proposed West Building’s Garage Entrance is located on 9th Street. The West Building’s entrance to its underground parking and service locations consists of entering a covered drive-way with a clearance of 17’6” that JBG says is also the entrance to the public alley. The entrance to the alley from 9th Street would require driving past service locations, to either turn right to enter the remaining portion of the North/South alley which is outside of the covered drive-way area or proceeding past the alley to the underground garage. DDOT’s Design and Engineering Manual for Public Space states “all driveways shall be a minimum of 24-feet wide for two-way traffic”. **On the West site, JBG proposes to construct a 20 feet wide alley/driveway instead of 24-feet wide required for two-way traffic.** DDOT’s Public Realm Design Manual also states “the curb radius for the entrance to a new alley is 10 feet”. This standard would also be impossible should the alley entrance be placed on

9th Street. The 9th Street Property Owners consider this alley proposal of 20 feet for two-way traffic to be too limiting and hazardous for our commercial use. Entry to the service locations on 9th Street would serve to make the 1900 block of 9th Street the staging area for services to the building and would be incompatible with the ambiance of our area and the DUKE Plan. It should be noted that the West Building on the 8th Street side already has an existing curb cut that could be relocated on 8th Street to serve as the point of ingress and egress into the proposed underground parking and services locations. Locating the curb cut for the West Building on 8th Street instead of 9th Street is consistent with DDOT's policies for new driveways, which states "when a curb cut is unavoidable and the property fronts on 2 or more streets, the street having the lowest traffic volume is preferred for access". This argument supports the 8th Street entrance rather than the 9th Street entrance.

The West site's "New Alley"/Garage Entrance will connect with the existing 10-foot north-south alley, (which JBG pledged at the April 16, 2012 ANC 1B Design meeting to widen by another 10 feet for the length of its property line on the 8th Street side). We oppose the height clearance and sweep angle onto the public alley given the design of Level 2/2nd Floor and its overhang(s). A major concern that we have is whether access into the public alley from the West Building's "Garage Entrance" will be accessible at all times (24/7) for use. The new alley/driveway configuration will impede our commercial tenants in their business operations and types of services provided, which could create health, sanitation and safety concerns. The elimination of the underground parking prevents a potentially impracticable "chain of events" from occurring.

Some of the 9th Street Property Owners argues that the Florida Avenue entrance to the alley is the only entrance large enough to accommodate the large trucks required in the operation of their commercial businesses. There is an existing 8th Street entrance to the alley, however, that entrance is impacted by the placement of a utility pole that makes a 90 degree turn impossible serving to prevent large trucks from entering the alley and navigating to the northern properties in the alley; and the "T" Street entrance is too narrow to accommodate the entering of large trucks.

In closing, the 9th Street Property Owners' goal is to seek a balance in respecting the Greater U Street Historic District's past while embracing its new diversity, and we look forward to working with JBG Companies in the fulfillment of this project. We have continually offered them our analysis and recommendations in hopes of stimulating needed corrective changes, but have repeatedly been ignored. JBG wants to maximize the total development of both sites without compromise. Our attendance, today, is to show our unity in reaching conclusions that are consistent with the DUKE Plan, and the Historic Preservation, Zoning and DDOT requirements, and that we believe are in the best interest of the Shaw Greater U Street Historic District.

Thank You,

Square 393 9th Street Property Owners