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Outline of Testimony before the Board of Zoning Adjustment

BZA Application No. 18375
710 Florida Avenue, N.W.

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July 10, 2012

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18375
EXHIBIT NO. 36

I. Site location and description

A. Location

1. Southeast corner of the intersection of Florida Avenue and 8th Street, N.W.
2. Project site consists of Lot 31 in Square 416
3. Site located in the Shaw area near the intersection of the 7th Street and Florida Avenue corridors

B. Size

1. Site area is approximately 15,956 square feet
2. Site is irregularly shaped
3. Frontage of approximately 124.5 feet on Florida Avenue and 140.5 feet on 8th Street
4. Bounded by private property on the east and south sides

C. Existing site condition: vacant

II. Description of surrounding area

A. Shaw area, near the intersection of the 7th Street and Florida Avenue corridors

B. Part of U Street Historic District

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C. Remainder of Square 416:

- 1. To the east: parking lot fronting on the intersection of Florida Avenue and 7th Street**
- 2. To the south:**
 - a. On 8th Street: 5 two-story residential buildings**
 - b. On T Street: commercial building (1 story)**
 - c. On 7th Street: CVS pharmacy (1 story)**

A. Uses to the south:

- 1. Howard University dormitory and parking lot on the west side of 7th Street between S and T Streets**
- 2. Mixed commercial uses in buildings of varying heights continuing south along 7th Street**
- 3. Cleveland Elementary School at the southeast corner of the intersection of 8th and T Streets**
- 4. Public charter school at the southeast corner of 9th and T Streets**
- 5. Other mixed residential structures of varying heights**

B. Uses to the east:

- 1. Mixed commercial uses in 1 to 4 story buildings along 7th Street and Florida Avenue**
- 2. More generally in the area, mixed residential structures of varying heights**

C. Uses to the north:

- 1. Mixed commercial uses on the north side of Florida Avenue in 1, 2 and 3 story buildings**
- 2. Offices of the D.C. Housing Finance Agency at the northeast corner of 9th Street and Florida Avenue**
- 3. Further to the north is the Howard University campus**

D. Uses to the west:

1. Surface parking lot located at the southwest corner of 8th Street and Florida Avenue
2. Mixed residential structures of varying heights on the west side of 8th Street between Florida Avenue and T Street
3. Further to the west includes commercial corridors along 9th and U Streets

II. ARTS/C-2-B District

A. C-2-B District

1. Uses (§§720 – 739)
 - a. Commercial use permitted as a matter-of-right, including retail, service and office use
 - b. Hotel
 - c. Residential use permitted as carry-over from Special Purpose and Residential Districts
2. Height
 - a. Maximum of 65 feet (§770.1)
 - b. Under inclusionary zoning, maximum permitted height is increased to 70 feet (§2604.2)
3. Density
 - a. Maximum of 3.5 FAR, with nonresidential uses limited to 1.5 FAR (§771.2)
 - b. Under inclusionary zoning, maximum permitted residential density is increased by 20% to 4.2 FAR (§2604.1)
4. Lot occupancy: Residential uses limited to 80% (§772.1)
5. Rear yard – minimum of 15 feet (§774.1)
6. Side yard - not required; if provided, minimum of 2 inches per foot of height of building (§775.5)

7. Parking (§2101.1)

- a. For apartment house: minimum of 1 space for each 3 units
- b. For retail use: minimum of 1 space for each 750 square feet of gross floor area in excess of 3,000 square feet

8. Loading berth:

- a. For residential: minimum of 1 berth @ 55 feet and 1 service/delivery loading space for apartment house with 50 or more units
- b. For 5,000 to 20,000 square feet of retail: minimum of 1 berth @ 30 feet

B. ARTS Overlay District

1. Use restrictions (§1901):

- a. Preferred retail and arts uses must occupy at least 50% of the ground level for a building fronting on Florida Avenue between 7th and 9th Streets
- b. No drive-throughs
- c. Limitations on frontage devoted to eating and drinking establishments

2. Street frontage design requirements (§1903)

3. Bonus density (§1904)

- a. Maximum permitted FAR using bonus density from uses listed in §1904.2 is 4.5 FAR
- b. Additional bonus under §1904.3 of 0.5 FAR for a building including at least 3.0 Far of residential use

III. Proposed development

A. Use: apartment house with approximately 95 units

B. Gross floor area of approximately 79,732 square feet (approximately 5.0 FAR), including 8,421 square feet of ground floor retail

- C. Height: 70 feet
- D. Parking: 29 spaces provided
- E. Loading: 1 berth @ 30 feet, 1 platform @ 200 square feet and 1 service/delivery loading space @ 20 feet provided

IV. Relief required:

A. Variances:

- 1. Variance from the rear yard requirements (§774):
 - a. Minimum required: 15 feet
 - b. Proposed: 0
 - c. Variance: 15 feet
- 2. Variance from the lot occupancy requirements (§772):
 - a. Maximum allowed: 80%
 - b. Proposed: 90%
 - c. Variance: 10%
- 3. Variance from the parking requirements for the number of spaces (§2101.1):
 - a. Minimum required: 40 spaces (32 for the apartments and 8 for the retail)
 - b. Proposed: 29 spaces
 - c. Variance: 11 spaces
- 4. Variance from the loading requirements (§2201.1)
 - a. Minimum required: 1 berth @ 55 feet, 1 berth @ 30 feet, 1 platform @ 200 square feet, 1 platform @ 100 square feet and 1 service/delivery loading space
 - b. Proposed: 1 berth @ 30 feet, 1 platform @ 200 square feet and 1 service/delivery loading space
 - c. Variance: 1 berth @ 55 feet and 1 platform @ 100 square feet

B. Special exceptions:

1. Roof structure (§411)

- a. Required: single enclosure with walls of equal height setback 1:1 from exterior walls of building
- b. Proposed: 3 enclosures (1 elevator override and 2 stair towers), and 1 stair tower not setback 1:1 from court wall
- c. Relief required:
 - (1) Multiple enclosures
 - (2) Stair tower set back 8 feet from the wall of the court, 2 feet less than the 10 feet required

2. Exception from the requirements of the ARTS Overlay (§1906):

- a. Required: 75% of the streetwall of the building on Florida Avenue to a height of 15 feet must be built to the property line
- b. Proposed: all of ground floor of the building is setback at varying depths with a minimum of 5', 9 1/2" from the property line
- c. Relief required: approval of building design with setback at ground floor to effectively widen public space

V. 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.

VI. Compliance with the variance standards

A. Exceptional situation:

1. Size and shape of the lot
2. Distance of the property line from the curb on Florida Avenue is only 12 feet
3. Presence of Metrorail Green Line tunnels under the site
 - a. The depth of the tunnels below the surface
 - b. The need for a stand-off distance for construction above
 - c. The type of construction used for this tunnel segment
4. Limitation on taking access to required parking or loading from Florida Avenue

B. Practical difficulty:

1. Insufficient area and depth to provide more than one level of parking
2. Maximum number of spaces that can fit on one level is 29
3. Retail requirement (minimum of 50% of the ground floor) effectively precludes parking on that level
4. Providing a 55 foot loading berth significantly adversely impacts the design of the ground floor
5. Unusual costs associated with constructing over and near the Metrorail tunnels require that the building achieve the maximum permitted density
6. Impacts on design of first floor result in loss of potential retail square footage which becomes residential density above but which does not offset the loss in retail value (c. \$4.00 per square foot per month for retail vs. c. \$2.24 per square foot per month for residential)
7. Limiting lot occupancy on the residential floors to 80% would change the unit mix of apartments to be provided and would prevent the applicant from achieving the permitted gross floor area in a reasonable and efficient design

8. Similarly, a rear yard would take a 15 foot swath across the southern end of the property and reduce the footprint of the site where apartment units could be located

C. No substantial detriment:

1. Number of parking spaces proposed is adequate to meet the needs of the building, per reports from Gorove|Slade and DDOT
2. High transit accessibility will lead to less demand for parking
3. Size of apartment units does not require a 55 foot truck for apartment move-ins and move-outs
4. Elimination of required rear yard prevents gap in streetwalls
5. Sufficient light and air will be provided to the residential units from the street frontages and the closed court
6. Provision of additional residential units with ground floor retail is consistent with the goals of the ARTS Overlay and existing planning policies

VII. 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.

VIII. Compliance with the special exception standards for roof structure

- A. Size of building lot and other conditions:
 1. Shape of lot results in residential floor plates that are essentially a single loaded corridor facing Florida Avenue and a double loaded corridor parallel to 8th Street

2. Location of required means of egress dictates the location of the stair towers on the roof which must be separated from each other and are separated from the elevator core
3. Court is necessary to provide light and air to the units on the south side of the building which do not front on either street

B. Unduly restrictive and unreasonable:

1. Stair towers to the roof need to be separated from each other and the elevator core
2. Providing a conforming enclosing wall around all three roof structures at the height of the elevator penthouse would be costly, would significantly increase the mass on the roof and would likely cause other noncompliance with the required 1:1 setback
3. Additional setback on the south side would force would result in awkward units on the upper 2 floors

C. Impact on light and air of other buildings

1. Roof structure meets setbacks from all street frontages and is within permitted height
2. Stair towers are only 10 feet in height
3. Roof structures are mostly not visible from public spaces

D. Harmony with the purpose and intent of the Regulations

1. Roof structures have been designed to minimize the height and bulk
2. Meet all setbacks from streetwall edges

IX. Standards for the exception to the ARTS Overlay:

- A. Feature at size and location proposed will substantially advance the purposes of the ARTS District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience or general welfare of persons living, working or visiting the area
- B. Exceptional circumstances affect the property make compliance difficult or impossible or the development provides alternative public benefits

- C. Architectural design will enhance the urban design features of the immediate vicinity
 - D. Board shall refer the application to the State Historic Preservation Officer for review
 - E. Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently and to create no dangerous or otherwise objectionable traffic conditions
 - F. Board may impose conditions regarding design, appearance, signs, size, landscaping and other requirements to protect neighboring property and to achieve the purposes of the Overlay
- X. Compliance with the special exception standards for street wall setback:
- A. Width of public realm between the curb and the property line is 12 feet, including a 4 foot tree box and only 8 feet of sidewalk
 - B. Providing setback which varies but is a minimum of 5', 9 1/2" from the property line on Florida Avenue effectively widens public sidewalk to in the range of 14 feet (plus the 4 foot tree box), consistent with DDOT standards and the DUKE Small Area Plan
 - C. Design is subject to review by HPRB
 - D. Access and egress are located on 8th Street, the only possible location
- XI. Conclusions
- A. Size and shape form exceptional conditions of the property limiting how much underground parking can be provided
 - B. Metrorail tunnels are directly under the site and contribute substantially to the reasons why relief is necessary
 - C. Practical difficulty results from inability to provide more underground parking
 - D. There are sufficient alternatives for access to the site using modes other than automobile travel
 - E. 55 foot loading berth not necessary to serve the building
 - F. Difficulties associated with constructing over and near the tunnels makes it necessary to achieve the permitted density, which cannot reasonable be accomplished without relief from the rear yard and lot occupancy limitations

- G. Roof structures have been designed to be minimally visible
- H. Relief from the ARTS Overlay ground floor requirement actually enhances the purposes of the Overlay
- I. The application should be granted