

**SQUARE 393 9TH STREET PROPERTY OWNERS' OPPOSITION STATEMENT
BEFORE THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT ON
CASE #18375/EAST SITE – FLORIDA AVENUE RESIDENTIAL LLC'S (JBG
COMPANIES) – FLORIDA AVENUE AT 9TH AND 8TH NW PROJECT, AS RENDERED**

TUESDAY, JULY 10, 2012

Good Afternoon, 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 in Squares 416 and 393. Given the time allotted to express opposition at this hearing, and our many grievances, I will only read the bolded text.

In preparation for this public hearing, the 9th Street Property Owners in Square 393 reviewed JBG Companies' BZA Application against: 1) the DUKE Plan; 2) Zoning requirements; 3) Historic Preservation requirements; and 4) District Department of Transportation (DDOT) requirements. We oppose granting approval to proceed with the development of the East site, as rendered for the following reasons:

PROJECT DOES NOT COMPLY WITH THE DUKE PLAN

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. **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 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 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 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." 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 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 reduced. We recommend that this building 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.

HPRB's MAY 31, 2012 VOTE, “NOT TO APPROVE” REVISED DESIGN AND CONSTRUCTION DRAWINGS

The 9th Street Property Owners in Square 393 presented testimony at the May 31, 2012 Historic Preservation Review Board (HPRB) hearing in opposition to both BZA Applications 18375 and 18397. We did not attend the March 22, 2012 HPRB hearing because, many of the property owners only learned of the proposed project at the initial March 21, 2012 meeting with JBG representative Lauren Jezienicki.

Holland & Knight's statement at the bottom of page 4 of its June 26, 2012 BZA Application Statement is misleading and implies HPRB voted approval at the May 31, 2012 hearing, and the July 26 2012 review will only focus on exterior design issues. A review of the video broadcast of the May 31, 2012 hearing confirms that the HPRB voted “NOT” to approve the revised design/new construction drawings. However, the Board did pass a second motion instructing JBG to continue working with the Historic Preservation Office staff on further revisions to its design and return before the HPRB for a third review of its altered plans now scheduled for July 26, 2012. As stated in the Office of Planning's July 3, 2012 Memorandum, page 8 Section VIII. HISTORIC PRESERVATION – “HPRB directed the Applicant to continue studying the compatibility of the design”.

JBG AND ANC 1B'S FAILURE TO ACCEPT NEGATIVE IMPACT OF DESIGN AND CONSTRUCTION ON ITS NEAREST NEIGHBORS

We have continually offered JBG our analysis and recommendations in hopes of stimulating needed corrective changes, but have been repeatedly ignored. At each meeting with JBG representatives and in our written communications, we have clearly stated our position, in opposition, to the proposed project, as rendered. JBG remains committed to maximizing the total development of both sites without compromise.

David B. Lindeman, an owner/partner of 1923 9th Street NW LLP, learned of the proposed project upon receipt of the January 27, 2012 DCRA Office of the Surveyor Notice about the proposed alley closing behind the properties in the 1900 block of 9th Street NW. The Notice was not mailed to all property owners whose properties abut the public alley system. Mr. Lindeman contacted the D.C. Office of the Surveyor and received a January 18, 2012 update of JBG Companies' progress, which included the November 28, 2011 Application to Close/Dedicate a Street or Alley or Elimination of Building Restriction Line. On February 21, 2012, a 9th Street Property Owner filed a complaint with the DC Office of the Surveyor opposing closure of the public alley (SO # 11-08780).

On Wednesday, March 21, 2012, six owners of property in the 1900 block of 9th Street NW met with ANC-1B Chairperson Myla Moss and Lauren Jezienicki representing JBG Companies, regarding the building of the mixed use development to express opposition to the proposed alley closing behind the properties of 1900 9th Street NW. In our April 3, 2012 communication with the DC City Council, we took exception with Ms. Jezienicki's summary of the meeting because it failed to address our primary concern, the permanent closing of the northern entrance of the alley behind Lots 44, 826 and 41 and the impact it will have on the properties and businesses for the entire block. 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.

During the April 16, 2012 ANC 1B Design Committee meeting (as stated in JBG's Minutes of the meeting), we recommended that the project in its entirety be redesigned. 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 to reduce the massing. 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.)

We also take exception to Ms. Jezienicki's summary of the May 7, 2012 Community Meeting held to discuss the proposed public alley closing. In her June 18, 2012 Dear Neighbors letter, she stated the 9th Street Property Owners "chose not to attend" and supported her position with our May 7, 2012 e-mail. Whereas, our May 7, 2012 e-mail informed her of our non attendance, it also asked Ms. Jezienicki to convey, which she failed to do, the following: "the property owners' opposition to closing the northern section of the public alley exiting Florida Avenue. After studying the DUKE Plan and Historical Preservation guidelines, we believe, that design flaws exist that are detrimental to us and inconsistent with the mentioned provisions. We recommend making the temporary access to the construction site from Florida Avenue onto 8th Street between Lots 45 and 31, and the permanent access to the West Building from 8th Street not 9th Street".

At the conclusion of the May 23, 2012 meeting with JBG representatives, the 9th Street Property Owners were asked if our position regarding opposition to the proposed project design and public alley closing had changed. The answer provided was, "we still opposed the proposed project, as rendered".

FAILURE TO MEET BZA THREE-PART TEST

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 nor does it address the need for affordable housing, a significant DUKE Plan provision. These variances, if granted to the new buildings, will also result in negative impacts on the traffic patterns in the surrounding neighborhood.

- *Affordable Housing*

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 of 30% affordable housing in each building. 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"*. We agree with the Office of Planning's statement on page 1 of its July 3, 2012 Memorandum: "OP is not able to support the request for lot occupancy relief based on the materials provided. OP encourages the Applicant to more fully demonstrate how the variance test has been met..."

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.

- *Traffic Patterns/Congestions*

We also disagree with the description provided in the May 25, 2012 Gorove/Slade Associates Transportation Impact Study's Executive Summary regarding the level of traffic on 9th Street NW. The Executive Summary states that "9th serves as minor arterial connecting the downtown to Sherman Avenue" and on page 2 states "Traffic volume data is not available for 9th Street within the study area." This is incorrect since with the absence of a bus line on 9th Street more vehicular traffic travels on this route rather than 7th Street which does have a bus line. The Executive Summary also states that "8th and T Streets primarily serve s local roadways for residential traffic only". It should be noted that T Street is one-way street traveling east. Our primary concern with the proposed traffic patterns is the amount of anticipated traffic from 8th Street (a 2 lane residential street) onto the heavily traveled commercial corridors and the potential "bottlenecks" that will occur attempting to enter and exit the service locations and parking garage on 8th Street from Florida Avenue and T Street.

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, which will be used for both residential and commercial use. 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 proposed closing of the northern section of the public alley in Square 393 will also have a detrimental impact on traffic patterns in the neighborhood.