

Via Electronic Mail to the Addressees Below

July 18, 2012

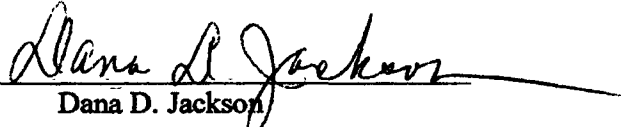
Addressees:

Clifford Moy, Office of Zoning
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
Lewis Booker, DDOT

RE: The DUKE Plan and Arts Overlay Position Paper in Opposition to JBG
Companies Florida Avenue 8th & 9th Street NW Project, As Rendered – BZA
Application #18375

Per the BZA's July 10, 2012 request, attached hereto is the 9th Street Property
Owners in Square 393's Position Paper for consideration/discussion at the July 24, 2012
BZA Public Hearing.

Sincerely,


Dana D. Jackson

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D.C. OFFICE OF ZONING
2012 JUL 18 PM 1:40

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18375
EXHIBIT NO. 41

Board of Zoning Adjustment
District of Columbia
CASE NO.18375
EXHIBIT NO.41

BZA CASE #18375/EAST SITE – FLORIDA AVENUE RESIDENTIAL LLC’S (JBG COMPANIES) – FLORIDA AVENUE AT 9TH AND 8TH NW PROJECT, AS RENDERED

Background

Steve Callcott’s Historic Preservation Review Board March 22, 2012 Staff Report of the Florida Avenue at 9th and 8th Streets NW Project stated:

“Redevelopment of this site has the potential for fulfilling an important city goal in contributing to the revitalization of the U Street corridor as a city-wide cultural and entertainment destination. In 2003-2004, the Office of Planning, working with other partner agencies, private landowners and the community, developed the Uptown Destination District Plan, dubbed “DUKE” after Duke Ellington, as a development framework plan to guide redevelopment of the U and 7th Streets corridors as an 18-hour arts, entertainment and cultural district. Promoting and reinforcing the historic character and African-American heritage of the area is a cornerstone of the plan, while it also recognizes the need for additional density and transit-oriented development to achieve the critical mass and desired vibrancy for the area. DUKE provides a series of recommendation for promoting high quality new design in coordination with the preservation of existing structures, encouraging heritage tourism, enhancing the neighborhood’s retail base, providing affordable housing, and addressing transportation and parking needs.

As a policy document rather than an implementation plan, DUKE did not result in rezoning or new programs for the area, but rather outlines how many of the plan’s goals could be achieved through public-private coordination and existing tools and incentives, such as the HPRB design review process. The plan was adopted by the DC Council in June 2005.

The DUKE plan identified these particular parcels as a major gap in the neighborhood that cut off the redeveloping area around the Howard Theater, White Cross Bakery, and Shaw/Howard University Metro from the more fully redeveloped area to the west around the U Street Metro station. The most important recommendation of the plan as it pertains to this site is that the project be designed and programmed to activate and bridge that gap.

In order for the Board to give “due consideration to the [city’s] zoning laws and regulations” as stipulated under the preservation law for projects involving new construction, it should be aware that the existing zoning on this site is C-2-B, allowing a maximum height of 65 feet. The site is also located in the Uptown Arts Overlay District and subject to the city’s Inclusionary Zoning (IZ) regulations, which permits some additional height and density – a maximum of 70 feet and 5.0 FAR – to encourage affordable housing, retail and arts uses. The area is identified in the Comprehensive Plan as Moderate Density Residential/Moderate Density Commercial.”

The DUKE Plan

It was envision with the enactment of The DUKE Plan 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 in which the project site is located.

Three of the four Process Goals in the DUKE Plan, on page 8, states:

1. *"Filling the Gap – Establish a mixed use destinations-oriented development program and strategy (consistent with transit oriented development guidelines) for any vacant and existing historic site between the historic Lincoln and Howard Theatres";*
2. *"Fitting In – Create a site plan and massing scenario that defines a new neighborhood and regional center of mixed use development along 7th Street/Georgia Avenue and Florida Avenue that meets the needs of the local community but also attracts residents from the surrounding areas and visitors"; and*
3. *"Demonstrating Benefits" – Outline the fiscal and economic impact of new investment on zoning; total area projected for retail development; estimated production of full-time jobs and temporary construction jobs; estimated sales tax revenues (where possible); and number of potential market rate and affordable rental and ownership opportunities.*

The DUKE Plan, on page 8, also set forth as the Primary Community Development Directives to the District and others, the following:

1. *To produce more affordable and adequate housing;*
2. *To provide affordable opportunities for local business development and assistance for existing merchants;*
3. *To restore the Howard Theatre to long-term use;*
4. *To create diverse apprenticeships & living wage job opportunities for the area's residents.*

The Community also provided input and set forth specific development goals under each of the seven (7) broad categories. The first category was Land Development Design and Preservation. Three of seven identified are:

1. *Enhance and respect the character and quality of life of the existing neighborhoods and their historic resources.*
2. *Be forward-thinking and progressive in the design of new and infill projects and the public realm by integrating innovative design solutions with historically significant structure.*
3. *Develop 20 to 30 percent affordable housing in residential development particularly on publicly owned land.*

The DUKE Plan- Transportation, Traffic and Parking, on page 5, states: *"The District has embarked on a public policy agenda that 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."*

Arts Overlay

As stated in Steve Callcott's Staff Report: The site is also located in the Uptown Arts Overlay District and subject to the city's Inclusionary Zoning (IZ) regulations, which permits some additional height and density – a maximum of 70 feet and 5.0 FAR – to encourage affordable housing, retail and arts uses.

Design/Historic Preservation Issues

The placement of a six story “modernistic wavy glass” structure plus roof box framed area does not “fit in” and does not promote or reinforce the historic character and African-American heritage of the area, which is a cornerstone of the DUKE Plan. Its building height, composition, materials and massing are fundamentally incompatible with the character of the historic structures within the Greater U Street Historic District. As stated in the DUKE Plan, the design should address the need to achieve a “signature architecture” that adheres to massing and scale to “fit in”. Page 40 of the DUKE Plan 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”. 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.

Zoning Issues

JBG Companies’ Application states, “relief can be granted without harm to the public good and without threat to the integrity of the zone plan.” We the 9th Street Property Owners take exception with this statement. With respect to the public good: the replacement of a vacant lot with a new six (6) story with roof area mixed use building adjacent to mostly two (2) story historic buildings does not provide significant contributions to our community. We recommend that this building be no more than 4 ½ stories in height.

JBG’s Application is requesting an increase lot occupancy regarding residential, but its application does not address the community’s request for mixed-income development that is consistent with the DUKE Plan. One principal component of the DUKE Plan as stated on page 10 is: *“This plan is to challenge public and private asset holders to develop mixed use, mixed-income developments where affordable housing units are created at not less than a minimum of 20% of the units, but preferable at the community’s preference of 30% and at rates that reach the very low income (0-30% of AMI)”*. Given the requested occupancy relief and using 30% of the total units proposed would represent 28 affordable housing units in the East Building. These figures are based on a 94 residential availability for that building.

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 building, will also result in negative impacts on the traffic patterns in the surrounding neighborhood.

Conclusion

The 9th Street Property Owner’s goal is to seek a balance in respecting the Greater U Street Historic District’s past while embracing its new diversity. The JBG Companies development plan and architectural drawings will not accomplish these objectives because the Variance Relief Requested for the East site is too severe and is in noncompliance with the DUKE Plan, Historic Preservation and DDOT requirements. For these reasons, the BZA should disapprove the Area Variances and Special Exceptions for the East site.