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Outline of Testimony before the Board of Zoning Adjustment

**BZA Application No. 18380
641 S Street, N.W.**

**Steven E. Sher
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July 24, 2012

- I. Site location and description
 - A. Location
 - 1. Northwest corner of the intersection of S and Wiltberger Streets, N.W.
 - 2. Project site consists of Lot 848 in Square 441
 - 3. Site located in the Shaw area
 - B. Size
 - 1. Site area is approximately 23,987 square feet
 - 2. Site is essentially rectangular in shape
 - 3. Frontage of approximately 96 feet on S Street and 249 feet on Wiltberger Street
 - 4. Bounded by a 15 foot alley on the west side and a 16 foot alley on the north side
 - C. Existing site condition: improved with a building portions of which are 1, 2 and 3 stories tall, formerly used as a commercial bakery
- II. Description of surrounding area (see aerial photograph, attached)
 - A. Shaw area

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BOARD OF ZONING ADJUSTMENT
District of Columbia
Board of Zoning Adjustment
CASE NO. 18380
EXHIBIT NO. 34

B. Remainder of Square 441:

1. To the north:
 - a. Vacant lot on Wiltberger Street
 - b. Howard Theater at the southwest corner of T and Wiltberger Streets
 - c. 2 story retail commercial buildings at the southeast corner of 7th and T Streets
2. To the west:
 - a. Entrance to the Shaw-Howard University Metrorail Station on the east side of 7th Street
 - b. Development site, now under construction, for a mixed use project known as Progression Place (approved as a PUD by the Zoning Commission in Order No. 07-07, for an apartment house with ground floor retail with a maximum height of 90 feet and a maximum FAR of 6.4, including a maximum of 2.5 FAR devoted to office/retail/arts uses and a minimum of 3.8 FAR devoted to residential use)
3. To the east:
 - a. Across Wiltberger Street starting from S Street:
 - (1) 2 story plus basement row structures fronting on S Street
 - (2) Seven 2 story rowhouses
 - (3) Two story commercial buildings extending to T Street
 - b. On the west side of 6th Street: 2 and 3 story residential buildings
 - c. On the south side of Florida Avenue: mixed retail commercial buildings some with upper story residential use

C. Uses to the south (across S Street):

1. Apartment houses (3 stories)
2. Mixed residential use (mostly 2 stories)

3. Churches
 4. Apartment houses on the east side of 7th Street
 - D. Uses to the east (across 6th Street): mixed residential uses
 - E. Uses to the north (across T Street):
 1. CVS drug store at the northwest corner of the intersection of 7th and T Streets
 2. 4 story commercial building at the northeast corner of the intersection of 7th and T Streets
 3. Additional mixed commercial buildings fronting on 7th Street and Florida Avenue
 4. Mixed residential uses
 5. Howard University further to the north
 - F. Uses to the west (across 7th Street):
 1. Lincoln-Westmoreland apartments (9 stories) on the west side of 7th Street between R and S Streets
 2. Howard University student housing (3 stories) on the west side of 7th Street between S and T Streets
 3. Cleveland Elementary School on the east side of 8th Street between R and S Streets
 4. Other mixed residential uses further to the west
- III. 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: maximum of 65 feet (§770.1)
5. Density: maximum of 3.5 FAR, with nonresidential uses limited to 1.5 FAR (§771.2)
6. Lot occupancy: Residential uses limited to 80% (§772.1)
7. Rear yard – minimum of 15 feet (§774.1)
8. Side yard - not required; if provided, minimum of 2 inches per foot of height of building (§775.5)
9. Parking (§2101.1)
 - a. For retail use: minimum of 1 space for each 750 square feet of gross floor area in excess of 3,000 square feet
 - b. For office use: minimum of 1 space for each 1,800 square feet of gross floor area in excess of 2,000 square feet
10. Loading berths:
 - a. For 5,000 to 20,000 square feet of retail: minimum of 1 berth @ 30 feet, 1 platform @ 100 square feet and 1 service/delivery loading space
 - b. For 50,000 to 200,000 square feet of office: minimum of 2 berths @ 30 feet, 2 platforms @ 100 square feet and 1 service/delivery loading space

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 14th, U or 7th Streets or 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
 - c. May use bonus density to increase the amount of nonresidential square footage within the total permitted

IV. Proposed development

- A. Use: commercial building with retail and service uses in the cellar and on the first floor and office use on the second, third and fourth floors
- B. Gross floor area of approximately 78,347 square feet (approximately 3.27 FAR), including 16,274 square feet of ground floor retail (plus 8,257 square feet of retail in the cellar not counted in gross floor area)
- C. Height: 57 feet, 8 inches
- D. Parking: 27 spaces provided

V. Relief required:

- A. Variance from the parking requirements for the number of spaces (§2101.1):
 1. Minimum required: 55 spaces (34 for the office and 21 for the retail)
 2. Proposed: 27 spaces
 3. Variance: 28 spaces
- B. Variance from the rear yard requirements (§774):
 1. Minimum required: 15 feet
 - a. Measured from the centerline of the alley for a height up to 20 feet
 - b. Measured from the rear property line above 20 feet
 2. Proposed: 7 feet, 11 inches
 3. Variance:
 - a. Not required for the first floor (height less than 20 feet)

- b. 7 feet, 1 inch for the second, third and fourth floors (above 20 feet)

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 and width of the lot
 - 2. Presence of existing historic landmark
 - 3. Design considerations imposed to gain approval from the Historic Preservation Review Board
- B. Practical difficulty:
 - 1. Full compliance with the rear yard requirements results in moving the parking ramp approximately 7 feet further to the south
 - 2. Slope of the ramp and internal layout of the garage would result in loss of parking spaces and a difficult garage layout
 - 3. Size of site limits development to only one level of parking below grade on the north half of the site, including 27 spaces
 - 4. Full compliance with the parking requirements would result in need for at least 2 additional levels excavated below the present proposed structure
 - 5. Construction difficulties and cost premiums for additional parking would be unduly burdensome on the development

6. Reduced rear yard setback on upper floors is necessary to make up for density lost by providing setbacks and reduced height to address historic preservation concerns
- C. No substantial detriment:
1. Number of parking spaces proposed is adequate to meet the needs of the building, per reports from Kimley Horn and DDOT
 2. High transit accessibility, as well as bike parking and access to car sharing spaces, will lead to less demand for parking
 3. Will be more than 15 feet from the rear wall of the building to the centerline of the alley and more than 23 feet to the wall of any building constructed on the lot line across the alley to the north

IV. Conclusions

- A. Confluence of factors creates exceptional condition of the property limiting how much underground parking can be provided and where the north wall of the building can be located
- B. Practical difficulty results from inability to provide more underground parking that complies with size and access limitations
- C. Reduced rear yard allows for better functioning garage layout with more cars and helps address density lost through historic preservation design review
- D. There are sufficient alternatives for access to the site using modes other than automobile travel and there is sufficient off-street parking available in the neighborhood for those who will drive
- E. The application should be granted

