

**SQUARE 393 9TH STREET PROPERTY OWNERS' OPPOSITION STATEMENT
BEFORE THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENTS ON
CASE NUMBER 18397/WEST SITE - FLORIDA AVENUE RESIDENTIAL LLC'S (JBG
COMPANIES) - FLORIDA AVENUE AT 9TH AND 8TH NW PROJECT AS RENDERED**

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TUESDAY, SEPTEMBER 18, 2012

Good Morning, Chairman and members of the Board, I am Dana Jackson, speaking on behalf of myself and the other 9th Street Property Owners in Square 393. We have prepared this statement of opposition to the Florida Avenue Residential LLC's (JBG Companies) Florida Avenue at 9th and 8th NW project, as rendered in Squares 393.

In preparation for this public hearing, we reviewed JBG Companies' BZA Application against: 1) Zoning requirements; 2) Historic Preservation (HPRB) requirements; and 3) District Department of Transportation (DDOT) requirements. **We oppose granting approval to proceed with the development of the West site, as rendered for the following reasons:**

JBG COMPANIES' FAILURE TO ACCEPT NEGATIVE IMPACT OF DESIGN AND CONSTRUCTION ON ITS NEAREST NEIGHBORS

We have continually offered JBG our analysis and recommendations in hope of achieving needed corrective changes. At the conclusion of the July 26, 2012 HPRB public hearing, JBG Companies was instructed to meet with us to review the design of the West building, namely the inclusion of the rear balconies overlooking our properties in the 1900 block of 9th Street NW. At our initiation, a September 10, 2012 meeting was scheduled to discuss the rear balconies, as well as our major concern, which is the proposed closing of the public alley and its reconfiguration as part of JBG Companies' proposed construction of a 6 1/2 story mixed-use development. During the meeting, alternative approaches were discussed including our earlier recommendation of constructing an overhead walkway on Level 2 of the West building between Lots 44 and 45. Although, relief was reached regarding the balconies, no agreement was reached on the public alley closing regarding the hardship their design plans pose to the property owners' ability to operate our businesses.

On Thursday, October 4, 2012, a DC City Council public hearing will be held to consider approval of JBG Companies application to permanently close the northern and southern sections of the public alley adjacent to Lots 44, 826, 41 and 45 and reconfigure it to exit onto 9th Street NW. Given that on February 21, 2012, David B. Lindeman, an owner/partner of 1923 9th Street NW LLP filed a complaint with the DC Office of Surveyor opposing closure of the public alley (SO #11-08780), he wrote on September 12, 2012 to Congressmen Darrell Issa and Elijah Cummings informing them of our opposition to the alley closing. In the letter, he reiterated the board's

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such closure would cause for we, owners. A copy of the 13-page document has been provided to you.

FAILURE TO MEET BZA THREE-PART TEST

We believe JBG Companies 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 the West site 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. These variances, if granted to the new building, will also result in negative impacts on the traffic patterns in the surrounding neighborhood.

- **Design Issues**

The proposed 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 the required 82 spaces. For residential use, the loading dock area will provide only one 200 square feet Platform with JBG's 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 feet Platform with JBG's request to eliminate the second 30 feet Deep Loading Berth and the second 100 square feet Platform. Both residential and retail occupants are expected to share the Loading Berth and Loading Space.

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

Another design concern is the West Building's 9th Street entrance to its underground parking and service locations, which consists of entering a covered driveway with a clearance of 17'6" that JBG Companies says is also the entrance to the public alley. Entry to the service locations and underground parking garage on 9th Street would serve to make the 1900 block of 9th Street the staging area for services/access to the proposed building, i.e., making us the West Building's "back door", and would be incompatible with the ambiance of our commercial corridor.

- **Closing/Reconfiguration of Public Alley**

Keeping the current configuration of the public alley onto the 800 block of Florida Avenue NW 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 most of the commercial properties in the

1900 block of 9th Street NW are assessed at more than one million dollars, the owners' ability to remain competitive without diminishing the commercial appeal and functionality of our properties is severely compromised. The closure of the northern end (Florida Avenue) of the public alley and creation of a 20 foot alley entrance for two-way traffic on the 1900 block of 9th Street would serve to defeat this purpose by, among other things, restricting the ability of the large trash trucks that service our properties (some of which are restaurants) from accessing the rear.

The proposed entrance to the public alley from 9th Street would require driving past service locations to either turn right to enter the remaining portion of the North/South public alley, which is outside of the covered driveway area or proceed past the public alley to the two-way underground parking garage. The 9th Street Property Owners consider this public alley proposal of 20 feet for two-way traffic to be too narrow and hazardous for our commercial use. DDOT's Design and Engineering Manual for Public Space states, "all driveways shall be a minimum of 24-feet wide required for two-way traffic".

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. Will an "overhead coiling door" be installed for the West Building as shown for the East Building's Garage Entrance?

The new alley/driveway configuration will impede us and 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.

We 9th Street Property Owners contend that the Florida Avenue entrance to the public alley is the only entrance large enough to accommodate the large trucks required in the operation of our 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 public alley; similarly, the T^h Street entrance is too narrow to accommodate the entering of large trucks. Any closure of the Florida Avenue entrance therefore would cause us irreparable harm.

- **Traffic Patterns/Congestions**

A related concern is the amount of traffic onto a heavily traveled commercial corridor and the potential "bottlenecks" that will occur attempting to enter and exit on 9th Street from the proposed West Building's service locations and parking garage. Although the DC Department of Transportation's (DDOT) Public Realm Design Manual says, "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 Companies has requested a zoning variance for its service locations and parking garage that will not satisfy the DDOT's requirements which, we fear, will make a bad situation worse.

- **Affordable Housing**

JBG's BZA application request an increase lot occupancy for residential, but fails to honor the mixed-income development tenancy. We recommend a minimum 20% affordable housing to be provided on this 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 diversity its economy and helps to ensure that the District is a place where residents across the economic spectrum can live"*.

Conclusion

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. The JBG Companies' development and architectural drawings will not accomplish these objectives because the Variance Relief Requested for the West Site is too severe and is in noncompliance with the Historic Preservation and DDOT requirements. For the above reasons, the BZA should disapprove the Area Variances and Special Exceptions for the West site as rendered.

Thank You.

Square 393 9th Street Property Owners

Via Electronic Mail to the Addressees Below

September 14 2012

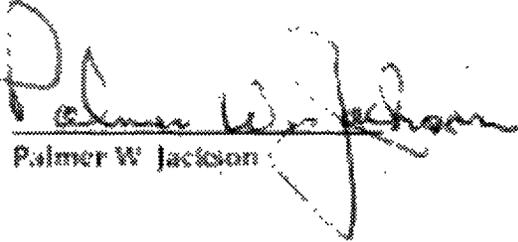
Addressees:

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

RE: Testimony in Opposition to JBG Companies Florida Avenue 8th & 9th Street
NW Project. As Rendered - BZA Application #18397

Attached hereto is the 9th Street Property Owners in Square 393's testimony
to be presented at the September 18, 2012 BZA Public Hearing.

Sincerely,


Palmer W. Jackson

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