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Outline of Testimony before the Board of Zoning Adjustment

BZA Application No. 18397
800 Florida Avenue, N.W.

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I. Site location and description

A. Location

1. South side of Florida Avenue between 8th and 9th Streets, N.W.
2. Project site consists of Lots 41, 44, 45, 46, 826 and a portion of a public alley proposed to be closed in Square 393
3. Site located in the Shaw area near the "bend" in the U Street/ Florida Avenue corridor

B. Size

1. Site area is approximately 32,494 square feet
2. Site is irregularly shaped, with a deeper extension from Florida Avenue on the east side of the existing alley as compared to the west side
3. Frontage of approximately 211 feet on Florida Avenue, 194.5 feet on 8th Street and 139 feet on 9th Street
4. Bounded by private property on the south side
5. Site divided by existing 10 foot wide north-south public alley, proposed to be closed, widened and reoriented to connect to 9th Street instead of Florida Avenue

SEP 18

BOARD OF ZONING ADJUSTMENT
Board of Zoning Adjustment
District of Columbia
CASE NO. 18397
EXHIBIT NO. 34

C. Existing site condition:

1. Existing buildings at 1933 and 1935 9th Street (2 stories with retail on the ground floor)
2. Remainder is vacant or used for surface parking

II. Description of surrounding area

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

B. Part of U Street Historic District

C. Remainder of Square 393:

1. To the south along 8th Street: residential buildings of 2 and 4 stories
2. To the south along 9th Street: commercial buildings of 2 and 3 stories devoted to retail and service uses

D. 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

E. Uses to the east:

1. On 8th Street: 5 two-story residential buildings
2. Mixed commercial uses in 1 to 4 story buildings along 7th Street and Florida Avenue, including a CVS pharmacy (1 story) and parking lot at the corner of Florida Avenue and 7th Street
3. More generally in the area, mixed residential structures of varying heights

F. 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

G. Uses to the west:

1. Commercial corridor along 9th Street in 2 and 3 story buildings, including some residential interspersed
2. Mixed residential uses
3. Commercial corridor along U Street
4. Former Grimke School at 1923 Vermont Avenue, now used by the DC Department of Fire and Emergency Medical Services
5. U Street Metrorail Station entrance at 10th and U Streets

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
 - 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 20,000 to 30,000 square feet of retail: minimum of 2 berths @ 30 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 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

IV. Proposed development

- A. Use: 6 story apartment house with approximately 156 units
- B. Gross floor area of approximately 153,822 square feet (approximately 4.73 FAR), including 20,238 square feet of ground floor retail
- C. Height: 70 feet
- D. Parking: 69 spaces provided
- E. Loading: 1 berth @ 30 feet, 1 platform @ 200 square feet, 1 platform @ 100 square feet, and 1 service/delivery loading space @ 20 feet provided

V. Relief required:

- A. Variances:
 1. Variance from the lot occupancy requirements (§772):
 - a. Maximum allowed: 80%
 - b. Proposed: 88%
 - c. Variance: 8%
 2. Variance from the parking requirements for the number of spaces (§2101.1):
 - a. Minimum required: 75 spaces (52 for the apartments and 23 for the retail)
 - b. Proposed: 69 spaces
 - c. Variance: 6 spaces

3. Variance from the loading requirements (§2201.1)
 - a. Minimum required: 1 berth @ 55 feet, 2 berths @ 30 feet, 1 platform @ 200 square feet, 2 platforms @ 100 square feet and 2 service/delivery loading space
 - b. Proposed: 1 berth @ 30 feet, 1 platform @ 200 square feet, 1 platform @ 100 square feet and 1 service/delivery loading space
 - c. Variance: 1 berth @ 55 feet, 1 berth @ 30 feet, 1 platform @ 100 square feet and 1 service/delivery loading space

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 elevator override not setback 1:1 from wall of building along the alley
 - c. Relief required:
 - (1) Multiple enclosures
 - (2) Elevator override set back 12 feet, 8 inches from the wall of the building along the alley, 3 feet less than the 15 feet, 8 inches 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 approximately 6' from the property line
 - c. Relief required: approval of building design with setback at ground floor to effectively widen public space

VI. 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.

VII. Compliance with the variance standards

- A. Exceptional situation:
 - 1. Size and shape of the lot bordering on 3 streets, resulting from the consolidation of existing lots and reconfiguration of the alley system to widen alley and provide better access
 - 2. Distance of the property line from the curb on Florida Avenue is only 10 feet clear
 - 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
 - 5. Presence of existing structure which are deemed contributing to the U Street Historic District and which are to be relocated on the site as part of the development
 - 6. Design constraints resulting from need to satisfy the Historic Preservation Review Board

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, including parking under the alley easement, is 72
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

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. Provision of additional residential units with ground floor retail is consistent with the goals of the ARTS Overlay and existing planning policies
5. Lot occupancy is only slightly over on floors 2, 3 and 4 and complies on floors 5 and 6

VIII. 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.

IX. Compliance with the special exception standards for roof structure

- A. Size of building lot and other conditions:
 - 1. 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
 - 2. Elevator core is located at the ideal location at the junction of the two wings of the building
 - 3. Setback from the exterior wall is dictated by location of corridors and units below
- 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 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
- X. 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
- XI. Compliance with the special exception standards for street wall setback:
- A. Width of public realm between the curb and the property line is 10 feet
 - B. Providing setback which varies but is approximately 6 feet from the property line on Florida Avenue effectively widens public sidewalk to in the range of 16 feet, consistent with DDOT standards
 - C. Design is subject to review by HPRB

- D. Access and egress are located on 9th Street

XII. 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 greatest possible density, which cannot reasonable be accomplished without relief from the 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